

EXHIBIT 30

West's Analysis of American Law



2018 Edition

GUIDE TO THE AMERICAN DIGEST SYSTEM



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FINDING KEY NUMBERS

West's Analysis of American Law

- ◆ Start with:
 - Topic List
 - Topics by Specialty Table
 - Outline of the Law
- ◆ Continue With:
 - Topic Notes
 - Cross-References
 - Key Number Outline

Descriptive-Word Index

- ◆ DWIs in each West Digest
- ◆ Easy access via key words

Library References

- ◆ Statutes, Encyclopedias, Texts, and Practice Books

Known, relevant case

- ◆ Note Key Numbers
- ◆ Find associated Key Numbers in Analysis

WESTLAW® search

- ◆ Click on KEY NUMBERS and either enter search terms or browse the West Key Number Digest Outline
- ◆ Use alternative search methods
 - Natural language
 - Terms and Connectors
- ◆ Note Key Numbers on relevant headnotes
- ◆ Find associated Key Numbers in Digest Outline
- ◆ Click on KEY NUMBERS and then KeySearch

WEST'S ANALYSIS OF AMERICAN LAW

2018 Edition

WITH KEY NUMBER CLASSIFICATIONS



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EXPLANATION OF KEY NUMBER ANALYSIS

The West Key Number analysis of American law is a scheme whereby the entire body of American law has been conceptualized and arranged in an orderly and logical way. It is easily the most important scheme of its type and has long been an essential tool for case law research. The application of this scheme to West's digests and to WESTLAW and West's CD-ROM products allows ready access to all published decisions.

The Key Number analysis contains about four hundred major topics, each one of which is further subdivided. There are over 100,000 individual Key Numbers used in the arrangement. Following is an explanation of the method by which individual digest paragraphs are distributed among the various topics and individual Key Numbers.

The scheme is based upon the following general categories:

- (1) PERSONS
- (2) PROPERTY
- (3) CONTRACTS
- (4) TORTS
- (5) CRIMES
- (6) REMEDIES
- (7) GOVERNMENT

The single words denoting the categories are to be understood as if each was preceded by the words, "Matters Relating to." Thus, category 1, as representing all matters relating to persons, includes everything incident to or connected with the existence and protection by the law of all persons, natural or artificial, and of every distinct class of persons, their relations, rights, and obligations of a personal nature, combination of persons in partnerships, associations, and companies, and the various classes of occupations. So, category 2 includes not only the subjects of rights of property, but also the various estates therein, and rights and obligations in respect thereof, and whatever is primarily incident to or connected with property, as conveyances

and other modes of acquiring and transferring it.

The order in which these categories are enumerated above furnishes a general rule, easily applied, for the distribution of the matter among the various topics and their subdivisions, by simply following the order of precedence in placing matters capable of being included under two or more topics. Thus, a digest may contain matters relating to infants, in respect to (1) protection of person; (2) disposition of property; (3) disability to contract; (4) liability for torts; (5) responsibility for crime; (6) capacity to sue or defend; (7) eligibility for office. The matters here enumerated correspond to the several categories, and most of them might be considered as presenting a question as to whether the matter should be placed under the topic "Infants" or under some other topic. The rule of precedence stated above assigns them all to "Infants," because that topic, as designating the class of persons affected, is within category 1. The rule is applied in like manner to all matters relating to other classes of persons, under such topics as "Mental Health," "Marriage and Cohabitation," "Convicts." The subdivision and arrangement of the matter under the respective topics also follow, as closely as practicable, the same order of precedence, generally using as subheads, etc., the terms denoting the categories, expanded or otherwise modified to suit the requirements of the particular subject.

The operation of the rule of precedence may be further illustrated by its application to a subject in another category, such as negligence, which, as a tort, is included in category 4. The liabilities for negligence of an infant (the personal incapacity being involved), or for negligence of a master as to his servant (the personal relation being involved), are assigned to the appropriate topics belonging to category 1, "Infants" and "Labor and Employment," respectively; the liability for negligence as to the condition of demised premises (the existence of

EXPLANATION OF SCHEME

the estate for years being involved) is assigned to the topic including that estate belonging to category 2, "Landlord and Tenant"; and so of every case of negligence involving any obligation of a personal, property, or contract nature. This leaves for the "Negligence" only matters arising between "strangers," independent of any distinctions peculiar to classes of persons or species of property or peculiar rights or obligations incident to either or to contracts relating thereto. As to the matters so included, the topic "Negligence" covers them fully,—what constitutes actionable negligence; the doctrine of proximate cause; and contributory negligence, including imputed and comparative negligence. And, further, it includes, by reason of its precedence over subsequent categories, matters which might belong to them, such as actions for negligence and procedure therein, and criminal responsibility for negligence.

This rule of precedence is subject, of course, to exceptions, and is not applied contrary to established usage or reasons of practical convenience. Thus, the capacity of a person—infant, married woman, alien—to make a deed or contract is placed, by this rule, and by usage, under the topic including the class of persons; consistency and the rule would also place there the capacity of such person to make a will, but usage places it under the topic "Wills," and it is apparent that such matter cannot be separated conveniently from questions of testamentary capacity and undue influence. But where no usage or reason to the contrary exists, there remains a wide field for the application of the rule.

In the development of the following scheme, considerations of convenience in doing the work, and consistency in the result, made it desirable that subjects of similar nature should be disposed of together, and in a manner as nearly identical as possible. For this purpose, the subjects to which the contents of a digest may relate, after being assigned to the different categories, are further divided, so far as necessary, into classes, and under each class the topics selected for the subjects in the class are arranged so as to bring together similar

subjects. This arrangement is set forth in full at the end of this explanation.

The terms employed to describe these subdivisions of the categories, including the titles used as topics, are all to be understood as preceded by the words "Matters Relating to," and are to be taken in a comprehensive sense. Thus "Burglary," as a topic, is not limited to its technical meaning at common law or under any particular statute, but includes every breaking of a building with criminal intent, even though it may be designated in the statute defining the offense as "Housebreaking," or "Breaking and Entering." Technical accuracy is very desirable in framing the paragraphs for a digest, but is not practicable in the selection of topics, especially for a general digest.

Many of the topics properly include matters belonging to more than one of the categories or classes above mentioned. Thus, several topics, such as "Assault and Battery," designate both a tort and a crime. No practical difficulty arises in such case, since, in the subdivisions, the matters are separated; as, under the topic mentioned, the private injury and the civil action, the public offense and the criminal prosecution, are distinct subdivisions, each of which is treated in that form as if it were a distinct topic. Such double topics are placed in the category or class to which the more important part belongs.

The selection or rejection of particular topics, where any such question has not been decided by usage or practical convenience, is determined in accordance with a principle or rule of general application. Thus, in category 1, "Persons," class 5, "Particular Occupations," the topics included cover or designate occupations which, because of their nature, the law has subjected to special regulations, obligations, or liabilities; rejecting those which are subject only to general regulations, such as licenses or occupation taxes, and to ordinary obligations or liabilities. So, in category 7, "Government," classes 4 and 5, the topics included which designate particular officers are the titles of officers having duties connected with the administration of the law; other

EXPLANATION OF SCHEME

officers are included under general titles, such as "Public Employment," "States," "Counties," etc. Examination and comparison of the scope notes will disclose the principle or rule followed in particular instances.

The form adopted for particular topics in cases of divided usage is controlled by regard for uniformity as to topics of the same class. Thus, in category 1, class 2, "Particular Classes of Natural Persons," where each of the classes of persons is distinguished by the existence of a particular legal disability, the name of the particular class is preferred to the term denoting the disability or condition; i.e., "Infants" rather than "Infancy" is used. As between substantives and adjectives, the substantive is preferred, especially as the initial word of a topic, unless the adjective be the important or significant word. Thus, "Intoxicating Liquors" is preferred to "Liquors." As to the use of the singular or plural form of the topics, in the absence of any settled usage, the rule adopted is to use the singular for titles of an abstract nature, the plural for the concrete. A ready test is made by prefixing to any title the words hereinbefore suggested as necessarily implied,—*"Matters Relating to,"*—which usually suggest the appropriate form.

In addition to the scope notes under the topics, subheads are given under each, exhibiting in another form its scope and extent. In this subclassification of the respective main topics, both the making and the use of the digest are facilitated by applying to subjects similar in their nature a like method of analysis, employing like terms to designate their subdivisions, and using a like order of arrangement of subdivisions, so far as practicable, giving due prominence to the peculiar features of each subject. Thus, the subclassification of all the various crimes is easily based on one general outline, with additions or omissions to adapt it to each; and so, to a greater or less extent, of contracts, torts, civil actions, criminal prosecutions, and nearly all other classes of subjects involved. The form of the arrangement is adapted to the quantity of matter to which it is to be applied, like terms being employed, under different topics, as subheads or subdivisions thereof, or as black-letter headings or subheadings, as any or all of these may be required.

Comparison of subdivisions will show this similarity of treatment of similar subjects, such as "Infants" and "Guardian and Ward" and "Executors and Administrators," "Principal and Agent" and "Labor and Employment."

OUTLINE OF THE LAW

*Digest Topics are arranged for your convenience by Seven Main Divisions of Law.
Complete alphabetical list of Digest Topics with topic numbers follows this section.*

- 1. PERSONS**
- 2. PROPERTY**
- 3. CONTRACTS**
- 4. TORTS**
- 5. CRIMES**
- 6. REMEDIES**
- 7. GOVERNMENT**

1. PERSONS

RELATING TO NATURAL PERSONS IN GENERAL

Civil Rights
Dead Bodies
Death
Domicile
Food
Health
Holidays
Intoxicating Liquors
Names
Seals
Signatures
Sunday
Time
Weapons

PARTICULAR CLASSES OF NATURAL PERSONS

Absentees
Aliens, Immigration, and Citizenship
Chemical Dependents
Convicts
Indians
Infants
Mental Health
Protection of Endangered Persons
Slaves
Spendthrifts

PERSONAL RELATIONS

Adoption
Attorney and Client
Child Custody
Child Support
Executors and Administrators
Guardian and Ward
Labor and Employment
Marriage and Cohabitation
Parent and Child
Principal and Agent
Workers' Compensation

ASSOCIATED AND ARTIFICIAL PERSONS

Associations
Beneficial Associations
Clubs
Corporations and Business Organizations
Exchanges
Finance, Banking, and Credit
Partnership
Religious Societies

PARTICULAR OCCUPATIONS

Accountants
Agriculture
Antitrust and Trade Regulation
Auctions and Auctioneers
Aviation
Bridges
Brokers

OUTLINE OF THE LAW

1. PERSONS—Cont'd

PARTICULAR OCCUPATIONS—Cont'd

Carriers
Commerce
Detectives and Security Guards
Electricity
Explosives
Factors
Ferries
Finance, Banking, and Credit
Gas
Hawkers and Peddlers
Innkeepers
Insurance
Licenses
Lobbying
Manufactures
Pilots
Public Amusement and Entertainment
Railroads
Seamen
Shipping
Steam
Telecommunications
Towage
Turnpikes and Toll Roads
Urban Railroads
Warehousemen
Wharves

2. PROPERTY

NATURE, SUBJECTS, AND INCIDENTS OF OWNERSHIP IN GENERAL

Abandoned and Lost Property
Accession
Adjoining Landowners
Confusion of Goods
Improvements
Property

PARTICULAR SUBJECTS AND INCIDENTS OF OWNERSHIP

Animals
Annuities
Automobiles
Boundaries
Cemeteries
Common Lands

Copyrights and Intellectual Property

Crops

Fences

Fish

Fixtures

Franchises

Game

Good Will

Logs and Logging

Mines and Minerals

Monopolies

Party Walls

Patents

Public Lands

Trademarks

Water Law

Woods and Forests

PARTICULAR CLASSES OF ESTATES OR INTERESTS IN PROPERTY

Charities

Common Interest Communities

Descent and Distribution

Easements

Estates in Property

Joint Tenancy

Landlord and Tenant

Life Estates

Perpetuities

Powers

Remainders

Reversions

Tenancy in Common

Trusts

PARTICULAR MODES OF ACQUIRING OR TRANSFERRING PROPERTY

Abstracts of Title

Adverse Possession

Alteration of Instruments

Assignments

Chattel Mortgages

Dedication

Deeds

Descent and Distribution

Equitable Conversion

Escheat

Fraudulent Conveyances

Gifts

X

OUTLINE OF THE LAW

2. PROPERTY—Cont'd

PARTICULAR MODES OF ACQUIRING OR TRANSFERRING PROPERTY—Cont'd

Lost Instruments
Mortgages and Deeds of Trust
Pledges
Secured Transactions
Wills

3. CONTRACTS

NATURE, REQUISITES, AND INCIDENTS OF AGREEMENTS IN GENERAL

Contracts
Customs and Usages
Frauds, Statute of
Interest
Usury

PARTICULAR CLASSES OF AGREEMENTS

Bailment
Bills and Notes
Bonds
ChamPERTY and Maintenance
Compromise and Settlement
Covenants
Deposits and Escrows
Exchange of Property
Gaming and Lotteries
Guaranty
Implied and Constructive Contracts
Indemnity
Insurance
Joint Ventures
Principal and Surety
Public Contracts
Rewards
Sales
Subscriptions
Vendor and Purchaser

PARTICULAR CLASSES OF IMPLIED OR CONSTRUCTIVE CONTRACTS OR QUASI CONTRACTS

Account Stated
Contribution
Implied and Constructive Contracts

PARTICULAR MODES OF DISCHARGING CONTRACTS

Novation
Payment

Release
Subrogation
Tender

4. TORTS

Assault and Battery
Collision
Conspiracy
Conversion and Civil Theft
False Imprisonment
Forcible Entry and Detainer
Fraud
Libel and Slander
Malicious Prosecution
Negligence
Nuisance
Products Liability
Seduction
Torts
Trespass
Waste

5. CRIMES

Abortion and Birth Control
Adulteration
Arson
Assault and Battery
Bribery
Burglary
Conspiracy
Controlled Substances
Counterfeiting
Criminal Law
Disorderly Conduct
Disorderly House
Disturbance of Public Assemblage
Embezzlement
Escape
Extortion
False Pretenses
Fires
Forgery
Fraud
Gaming and Lotteries
Homicide
Incest
Insurrection and Sedition
Kidnapping
Larceny
Malicious Mischief

OUTLINE OF THE LAW

5. CRIMES—Cont'd

Mayhem
Neutrality Laws
Obscenity
Obstructing Justice
Perjury
Prostitution
Racketeer Influenced and Corrupt
Organizations
Receiving Stolen Goods
Rescue
Riot
Robbery
Sex Offenses
Suicide
Threats, Stalking, and Harassment
Treason
Unlawful Assembly
Vagrancy

6. REMEDIES

REMEDIES BY ACT OR AGREEMENT OF PARTIES

Accord and Satisfaction
Alternative Dispute Resolution
Submission of Controversy

REMEDIES BY POSSESSION OR NOTICE

Liens
Lis Pendens
Maritime Liens
Mechanics' Liens
Notice
Salvage

MEANS AND METHODS OF PROOF

Acknowledgment
Affidavits
Estoppel
Evidence
Oath
Privileged Communications and
Confidentiality
Records
Witnesses

CIVIL ACTIONS IN GENERAL

Action
Declaratory Judgment
Election of Remedies
Limitation of Actions

Parties
Set-Off and Counterclaim
Venue

PARTICULAR PROCEEDINGS IN CIVIL ACTIONS

Abatement and Revival
Appearance
Costs
Creditors' Remedies
Damages
Exemptions
Homestead
Judgment
Jury
Motions
Pleading
Pretrial Procedure
Process
Reference
Stipulations
Trial

PARTICULAR REMEDIES INCIDENT TO CIVIL ACTIONS

Arrest
Assistance, Writ of
Bail
Deposits in Court
Injunction
Judicial Sales
Ne Exeat
Receivers
Recognizances
Sequestration
Undertakings

PARTICULAR MODES OF REVIEW IN CIVIL ACTIONS

Appeal and Error
Audita Querela
Certiorari
Exceptions, Bill of
New Trial
Review

ACTIONS TO ESTABLISH OWNER- SHIP OR RECOVER POSSESSION OF SPECIFIC PROPERTY

Detinue
Ejectment

OUTLINE OF THE LAW

6. REMEDIES—Cont'd

ACTIONS TO ESTABLISH OWNER- SHIP OR RECOVER POSSESSION OF SPECIFIC PROPERTY—Cont'd

Entry, Writ of
Interpleader
Possessory Warrant
Quieting Title
Real Actions
Replevin
Trespass to Try Title

FORMS OF ACTIONS FOR DEBTS OR DAMAGES

Account, Action on
Action on the Case
Assumpsit, Action of
Covenant, Action of

ACTIONS FOR PARTICULAR FORMS OR SPECIAL RELIEF

Account
Cancellation of Instruments
Divorce
Partition
Reformation of Instruments
Specific Performance

CIVIL PROCEEDINGS OTHER THAN ACTIONS

Habeas Corpus
Mandamus
Prohibition
Quo Warranto
Scire Facias
Supersedeas

SPECIAL CIVIL JURISDICTIONS AND PROCEDURE THEREIN

Admiralty
Bankruptcy
Equity
Federal Civil Procedure

PROCEEDINGS PECULIAR TO CRIMINAL CASES

Double Jeopardy
Extradition and Detainers

Fines
Forfeitures
Grand Jury
Indictment and Information
Pardon and Parole
Penalties
Searches and Seizures
Sentencing and Punishment

7. GOVERNMENT

POLITICAL BODIES AND DIVISIONS

Counties
District of Columbia
Municipal Corporations
States
Territories
Towns
United States

SYSTEMS AND SOURCES OF LAW

Administrative Law and Procedure
Common Law
Constitutional Law
International Law
Parliamentary Law
Statutes
Treaties

LEGISLATIVE AND EXECUTIVE POWERS AND FUNCTIONS

Bounties
Census
Commodity Futures Trading Regulation
Currency Regulation
Customs Duties
Education
Election Law
Eminent Domain
Environmental Law
Highways
Inspection
Internal Revenue
Pensions
Postal Service
Private Roads

OUTLINE OF THE LAW

7. GOVERNMENT—Cont'd

**LEGISLATIVE AND EXECUTIVE
POWERS AND FUNCTIONS—Cont'd**

Public Assistance
Public Contracts
Public Utilities
Securities Regulation
Social Security
Taxation
Unemployment Compensation
Water Law
Weights and Measures
Zoning and Planning

**JUDICIAL POWERS AND FUNCTIONS,
AND COURTS AND THEIR
OFFICERS**

Amicus Curiae
Clerks of Courts
Contempt
Court Commissioners
Courts
Federal Courts
Judges
Justices of the Peace
Removal of Cases
Reports
United States Magistrate Judges

**CIVIL SERVICE, OFFICERS, AND
INSTITUTIONS**

Ambassadors and Consuls
Asylums and Assisted Living Facilities
Attorney General
Coroners
District and Prosecuting Attorneys
Election Law
Newspapers
Notaries
Prisons
Public Employment
Registers of Deeds
Sheriffs and Constables
United States Marshals

**MILITARY AND NAVAL SERVICE
AND WAR**

Armed Services
Military Justice
Militia
War and National Emergency

DIGEST TOPICS

*See, also, Outline of the Law by Seven Main Divisions of Law
preceding this section.*

*The topic numbers shown below may be used in WESTLAW searches for cases
within the topic and within specified key numbers.*

1	Abandoned and Lost Property	41	Associations	89	Compromise and Settlement
2	Abatement and Revival	42	Assumpsit, Action of	90	Confusion of Goods
4	Abortion and Birth Control	43	Asylums and Assisted Living Facilities	91	Conspiracy
5	Absentees	45	Attorney and Client	92	Constitutional Law
6	Abstracts of Title	46	Attorney General	93	Contempt
7	Accession	47	Auctions and Auctioneers	95	Contracts
8	Accord and Satisfaction	48	Audita Querela	96	Contribution
9	Account	48A	Automobiles	96H	Controlled Substances
10	Account, Action on	48B	Aviation	97C	Conversion and Civil Theft
11	Account Stated	49	Bail	98	Convicts
11A	Accountants	50	Bailment	99	Copyrights and Intellectual Property
12	Acknowledgment	51	Bankruptcy	100	Coroners
13	Action	54	Beneficial Associations	101	Corporations and Business Organizations
14	Action on the Case	56	Bills and Notes	102	Costs
15	Adjoining Landowners	58	Bonds	103	Counterfeiting
15A	Administrative Law and Procedure	59	Boundaries	104	Counties
16	Admiralty	60	Bounties	105	Court Commissioners
17	Adoption	63	Bribery	106	Courts
18	Adulteration	64	Bridges	107	Covenant, Action of
20	Adverse Possession	65	Brokers	108	Covenants
21	Affidavits	67	Burglary	108H	Creditors' Remedies
23	Agriculture	69	Cancellation of Instruments	110	Criminal Law
24	Aliens, Immigration, and Citizenship	70	Carriers	111	Crops
25	Alteration of Instruments	71	Cemeteries	111H	Currency Regulation
25T	Alternative Dispute Resolution	72	Census	113	Customs and Usages
26	Ambassadors and Consuls	73	Certiorari	114	Customs Duties
27	Amicus Curiae	74	ChamPERTY and Maintenance	115	Damages
28	Animals	75	Charities	116	Dead Bodies
29	Annuities	76	Chattel Mortgages	117	Death
29T	Antitrust and Trade Regulation	76A	Chemical Dependents	118A	Declaratory Judgment
30	Appeal and Error	76D	Child Custody	119	Dedication
31	Appearance	76E	Child Support	120	Deeds
34	Armed Services	78	Civil Rights	122A	Deposits and Escrows
35	Arrest	79	Clerks of Courts	123	Deposits in Court
36	Arson	80	Clubs	124	Descent and Distribution
37	Assault and Battery	82	Collision	125	Detectives and Security Guards
38	Assignments	83	Commerce	126	Detinue
40	Assistance, Writ of	83H	Commodity Futures Trading Regulation	129	Disorderly Conduct
		83T	Common Interest Communities	130	Disorderly House
		84	Common Lands		
		85	Common Law		

DIGEST TOPICS

131	District and Prosecuting Attorneys	186	Fraudulent Conveyances	245	Logs and Logging
132	District of Columbia	187	Game	246	Lost Instruments
133	Disturbance of Public Assemblage	188	Gaming and Lotteries	248	Malicious Mischief
134	Divorce	190	Gas	249	Malicious Prosecution
135	Domicile	191	Gifts	250	Mandamus
135H	Double Jeopardy	192	Good Will	251	Manufactures
141	Easements	193	Grand Jury	252	Maritime Liens
141E	Education	195	Guaranty	253	Marriage and Cohabitation
142	Ejectment	196	Guardian and Ward	256	Mayhem
142T	Election Law	197	Habeas Corpus	257	Mechanics' Liens
143	Election of Remedies	198	Hawkers and Peddlers	257A	Mental Health
145	Electricity	198H	Health	258A	Military Justice
146	Embezzlement	200	Highways	259	Militia
148	Eminent Domain	201	Holidays	260	Mines and Minerals
149	Entry, Writ of	202	Homestead	265	Monopolies
149E	Environmental Law	203	Homicide	266	Mortgages and Deeds of Trust
149T	Equitable Conversion	205H	Implied and Constructive Contracts	267	Motions
150	Equity	206	Improvements	268	Municipal Corporations
151	Escape	207	Incest	269	Names
152	Escheat	208	Indemnity	271	Ne Exeat
154	Estates in Property	209	Indians	272	Negligence
156	Estoppel	210	Indictment and Information	273	Neutrality Laws
157	Evidence	211	Infants	274	Newspapers
158	Exceptions, Bill of	212	Injunction	275	New Trial
159	Exchange of Property	213	Innkeepers	276	Notaries
160	Exchanges	216	Inspection	277	Notice
162	Executors and Administrators	217	Insurance	278	Novation
163	Exemptions	218	Insurrection and Sedition	279	Nuisance
164	Explosives	219	Interest	280	Oath
164T	Extortion	220	Internal Revenue	281	Obscenity
166	Extradition and Detainers	221	International Law	282	Obstructing Justice
167	Factors	222	Interpleader	284	Pardon and Parole
168	False Imprisonment	223	Intoxicating Liquors	285	Parent and Child
170	False Pretenses	226	Joint Tenancy	286	Parliamentary Law
170A	Federal Civil Procedure	226H	Joint Ventures	287	Parties
170B	Federal Courts	227	Judges	288	Partition
171	Fences	228	Judgment	289	Partnership
172	Ferries	229	Judicial Sales	290	Party Walls
172H	Finance, Banking, and Credit	230	Jury	291	Patents
174	Fines	231	Justices of the Peace	294	Payment
175	Fires	231E	Kidnapping	295	Penalties
176	Fish	231H	Labor and Employment	296	Pensions
177	Fixtures	233	Landlord and Tenant	297	Perjury
178	Food	234	Larceny	298	Perpetuities
179	Forcible Entry and Detainer	237	Libel and Slander	300	Pilots
180	Forfeitures	238	Licenses	302	Pleading
181	Forgery	239	Liens	303	Pledges
183	Franchises	240	Life Estates	305	Possessory Warrant
184	Fraud	241	Limitation of Actions	306	Postal Service
185	Frauds, Statute of	242	Lis Pendens	307	Powers
		244H	Lobbying	307A	Pretrial Procedure
				308	Principal and Agent
				309	Principal and Surety
				310	Prisons
				311	Private Roads

DIGEST TOPICS

311H Privileged Communications and Confidentiality	344 Salvage	382T Trademarks
313 Process	346 Scire Facias	384 Treason
313A Products Liability	347 Seals	385 Treaties
314 Prohibition	348 Seamen	386 Trespass
315 Property	349 Searches and Seizures	387 Trespass to Try Title
315H Prostitution	349A Secured Transactions	388 Trial
315P Protection of Endangered Persons	349B Securities Regulation	390 Trusts
315T Public Amusement and Entertainment	350 Seduction	391 Turnpikes and Toll Roads
316E Public Assistance	350H Sentencing and Punishment	392 Undertakings
316H Public Contracts	351 Sequestration	392T Unemployment Compensation
316P Public Employment	352 Set-Off and Counterclaim	393 United States
317 Public Lands	352H Sex Offenses	394 United States Magistrate Judges
317A Public Utilities	353 Sheriffs and Constables	395 United States Marshals
318 Quieting Title	354 Shipping	396 Unlawful Assembly
319 Quo Warranto	355 Signatures	396A Urban Railroads
319H Racketeer Influenced and Corrupt Organizations	356 Slaves	398 Usury
320 Railroads	356H Social Security Specific Performance	399 Vagrancy
322 Real Actions	358 Spendthrifts	400 Vendor and Purchaser
323 Receivers	359 States	401 Venue
324 Receiving Stolen Goods	360 Statutes	402 War and National Emergency
325 Recognizances	361 Steam	403 Warehousemen
326 Records	362 Stipulations	404 Waste
327 Reference	363 Submission of Controversy	405 Water Law
328 Reformation of Instruments	366 Subrogation	406 Weapons
330 Registers of Deeds	367 Subscriptions	407 Weights and Measures
331 Release	368 Suicide	408 Wharves
332 Religious Societies	369 Sunday	409 Wills
333 Remainders	370 Supersedeas	410 Witnesses
334 Removal of Cases	371 Taxation	411 Woods and Forests
335 Replevin	372 Telecommunications	413 Workers' Compensation
336 Reports	373 Tenancy in Common	414 Zoning and Planning
337 Rescue	374 Tender	
338 Reversions	375 Territories	
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340 Rewards	378 Time	
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Following is a list of digest topics grouped by area of practice. The topics listed are those whose scope is primarily related to the area in question. The subject notes and cross-reference found in the listed topics, and the Descriptive Word Index volumes of West's digests, should be consulted for topics containing related Key Numbers.

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76D Child Custody
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Deeds of Trust

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1. ABANDONED AND LOST PROPERTY

SUBJECTS INCLUDED

General nature of relinquishment of property or other rights of any kind by abandonment, as distinguished from dedication, surrender, waiver, etc.

Effect of abandonment by way of extinguishment of the title or right

Finding and taking of possession of lost goods of another, whereby the finder may acquire title thereto

Nature, requisites and incidents of such finding and possession

Rights, duties and liabilities of finders of lost goods as to the owners or losers and as to others in general

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Estrays, see ANIMALS

Lost instruments in writing, establishment of and action on, see LOST INSTRUMENTS

Negotiable paper, rights of finders, see BILLS AND NOTES

Particular persons or personal relations, abandonment of, see specific topics

Particular species of property, rights, remedies, or proceedings, abandonment of, see specific topics

Reversion of property to the state, see ESCHEAT

Rewards for recovery of lost goods, etc., see REWARDS

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I. ABANDONMENT, ¶1-9.

II. FINDING LOST GOODS, ¶10-13.

I. ABANDONMENT.

1. Nature and elements.

1.1. — In general.

2. — Intent.

3. — Acts and omissions.

4. Evidence and questions for jury.

5. Operation and effect.

2. ABATEMENT AND REVIVAL

II. FINDING LOST GOODS.

10. In general; loss of property.

11. Rights and liabilities of finder as to owner.

12. Title and rights of finder as to third persons.

13. Title and rights of finders inter se.

2. ABATEMENT AND REVIVAL

SUBJECTS INCLUDED

Suspension or defeat of civil actions in general by matters affecting the procedure merely, not the merits of the cause of action

Grounds of such abatement of actions, more particularly—

Want of jurisdiction of the court

Bringing more than one action for the same cause

Defects or irregularities in bringing an action

Death or disability of parties, occurring either before or after action is brought

Necessity of pleading or otherwise taking advantage of matter in abatement, and effect of failure to do so

Revival of actions which survive

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Criminal prosecutions, abatement of, see CRIMINAL LAW

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Substitution of parties in pending actions, see PARTIES

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¶1-3.

2. ABATEMENT AND REVIVAL

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§§4-17.

III. DEFECTS AND OBJECTIONS AS TO PARTIES AND PROCEEDINGS,

§§18-40.

IV. TRANSFER OR DEVOLUTION OF TITLE, RIGHT, INTEREST, OR LIABILITY, §§41-47.

V. DEATH OF PARTY AND REVIVAL OF ACTION, §§48-77.

(A) ABATEMENT OR SURVIVAL OF ACTION, §§48-70.

(B) CONTINUANCE OR REVIVAL OF ACTION, §§71-77.

VI. WAIVER OF GROUNDS OF ABATEMENT AND TIME AND MANNER OF PLEADING IN GENERAL, §§78-88.

I. OBJECTIONS TO JURISDICTION.

1. Want of jurisdiction as ground of abatement.
2. Jurisdiction of the person.
3. Necessity and mode of making objection.

II. ANOTHER ACTION PENDING.

4. Ground of abatement in general.
5. Nature of other action or proceeding.
6. Priority of other action.
7. Pendency of other action.
8. Identity of cause of action, issues, or relief.
 - (1). In general.
 - (2). Identity of causes and issues.
 - (3). Action on judgment and on original cause of action.
 - (4). Identity of relief sought.
 - (5). Ability to obtain relief in former action.
 - (6). Cause of action accruing after commencement of first action.
 - (7). Former action instituted by defendant.
 - (8). Ability to set off claim or make defense in former action.
 - (9). Actions between partners and concerning partnership.
9. Identity of parties.
10. Action in different jurisdiction.
 - 10.1. — In general.
 11. — Court of same state.
 12. — State court or United States court.
 13. — Court of different state or country.

II. ANOTHER ACTION PENDING.(Cont'd)

14. Defects in other action.
15. Dismissal or other termination of other action.
16. Appeal or other proceeding for review in other action.
17. Necessity and mode of making objection.

III. DEFECTS AND OBJECTIONS AS TO PARTIES AND PROCEEDINGS.

18. Nature or form of action.
19. Nonperformance of condition precedent.
20. Premature action.
21. Fictitious plaintiff.
22. Disability or incapacity to sue.
23. Plaintiff not real party in interest.
24. Action in name of person deceased.
25. Disability or privilege of defendant.
26. Action against person deceased.
27. Nonjoinder of party.
28. Misjoinder of parties.
29. Misnomer or misdescription of party.
30. Defects or irregularities in process or service.
31. Variance between process and pleading.
32. Defects or irregularities in pleadings or other proceedings.
33. Disability of party pending suit in general.
34. Marriage of female party pending suit.
35. Removal of disability pending suit.
36. Reorganization or consolidation of corporation.
 - 36.1. — In general.
37. — Cause of abatement.
38. — Revival against new corporation.
39. Dissolution of corporation.
40. Necessity and mode of making objection.

IV. TRANSFER OR DEVOLUTION OF TITLE, RIGHT, INTEREST, OR LIABILITY.

41. Plaintiff's title, right, or interest in general.
42. Defendant's title, interest, or liability in general.
43. Insolvency or bankruptcy of individual party.
44. Insolvency, bankruptcy, or receivership of corporation.
45. Termination or devolution of representative or official capacity.

2. ABATEMENT AND REVIVAL**IV. TRANSFER OR DEVOLUTION OF
TITLE, RIGHT, INTEREST, OR
LIABILITY.(Cont'd)**

- 46. Necessity and mode of making objection.
- 47. Continuance or revival by or against successor in interest.

**V. DEATH OF PARTY AND
REVIVAL OF ACTION.****(A) ABATEMENT OR SURVIVAL OF ACTION.**

- 48. Death as cause of abatement in general.
- 49. What law governs.
- 50. Statutory provisions.
- 51. Causes of action which survive.
- 52. — In general.
- 53. — Actions on contract.
- 54. — Actions for personal injuries.
- 55. — Actions for injuries to property.
 - (1). In general.
 - (2). Trespass and conversion.
 - (3). Fraud.
 - (4). Actions to enforce liability of corporate stockholders and officers.
- 56. — Actions relating to specific property.
- 57. — Statutory actions.
- 58. Actions and proceedings which abate.
 - (5). In general.
 - (1). Actions for personal injuries.
 - (2). Actions relating to property.
- 59. Death of plaintiff.
 - 59.1. — In general.
- 60. — Sole plaintiff.
- 61. — One of two or more plaintiffs.
- 62. Death of defendant.
 - 62.1. — In general.
- 63. — Sole defendant.
- 64. — One of two or more defendants.
- 65. Death of party in representative or official capacity.
- 66. Death of both parties.
- 67. Death after verdict, decision, or interlocutory judgment.
- 68. Death after final judgment.
- 69. Death pending appeal or other review.
- 70. Necessity and mode of suggesting death as cause of abatement.

(B) CONTINUANCE OR REVIVAL OF ACTION.

- 71. Nature and necessity.

**V. DEATH OF PARTY AND REVIVAL
OF ACTION.(Cont'd)**

- 72. Persons required or entitled to continue or revive action.
 - (1). In general.
 - (2). Persons by whom action continued or revived in general.
 - (3). Ejectment or trespass to try title.
 - (4). Partition.
 - (5). Revival by persons next in interest.
 - (6). Revival by legatee or by administrator.
 - (7). Revival by heir or by devisee.
 - (8). Revival by assignee of decedent.
 - (9). Right of assignee acquiring interest after death.
 - (10). Death of person suing in representative or official capacity.
 - (11). Right of defendant to revive suit.
- 73. Persons against whom action may be continued or revived.
- 74. Time of taking proceedings.
 - (1). In general.
 - (2). Revival after time limited.
 - (3). Time of suggesting death.
 - (4). Laches.
 - (5). What statute governs running of time.
 - (6). When time begins to run.
- 75. Application and proceedings thereon.
 - (1). In general.
 - (2). Issues raised or determined, and pleading and proof.
- 76. Order for continuance or revival.
- 77. Proceedings after continuance or revival.

**VI. WAIVER OF GROUNDS OF ABATEMENT
AND TIME AND MANNER OF
PLEADING IN GENERAL.**

- 78. Defects and objections which may be waived.
- 79. Stipulations and other agreements.
- 80. Failure to make objection in general.
- 81. Time for making objection or filing plea.
- 82. Pleading out of order.
- 83. Demurring and proceedings thereon.
- 84. Pleading to merits and further proceedings.
- 85. Pleading in abatement and in bar.

2. ABATEMENT AND REVIVAL

VI. WAIVER OF GROUNDS OF ABATEMENT AND TIME AND MANNER OF PLEADING IN GENERAL.(Cont'd)

- 86. Failure to insist on judgment on plea.
- 87. Waiver of matter arising after issue.
- 88. Waiver of failure to revive action.

4. ABORTION AND BIRTH CONTROL

SUBJECTS INCLUDED

- Causing or procuring miscarriage or premature delivery of a pregnant woman, and acts done for or in aid of such purpose
- Right to and regulation of abortion, and limitations thereon
- Substituted judgment and third-party rights
- Fetal disposal and experimentation
- Contraception and birth control
- Nature and extent of criminal responsibility therefor, and grounds of defense
- Prosecution and punishment of such acts as public offenses
- Civil liability therefor

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

- Damages and procedural aspects of an action for wrongful death, see DEATH
- Homicide committed in attempting to procure abortion, see HOMICIDE
- Feticide and infanticide, see HOMICIDE
- Negligent or tortious performance resulting in injury or "wrongful life" to resulting child, or injury to parent, see HEALTH
- Professional medical conduct and discipline, see HEALTH
- 100. Abortion in general.
- 101. What constitutes; definitions.
- 102. Right to abortion in general; choice.
- 103. Regulation in general.
- 104. Scope and standard of review.
- 105. Public policy and governmental interest.
- 106. Fetal age and viability; trimester.

- 107. Reason or necessity for abortion in general.
- 108. Health and safety of patient.
- 109. Methods, modes and procedures.
- 110. Clinics, facilities, and practitioners.
- 111. Advertising and solicitation.
- 112. Information and consent; counseling.
- 113. Waiting period; delay.
- 114. Rights of donor, partner or spouse.
- 115. Minors and incompetents in general.
- 116. Substitution and bypass; notice.
- 117. — In general.
- 118. — Waiting period; delay.
- 119. — Approval by court; bypass in general.
- 120. — Capacity and maturity.
- 121. — Best interests of patient.
- 122. — Health of patient; emergency.
- 123. — Proceedings.
- 124. Records; confidentiality.
- 125. Disposal and experimentation.
- 126. Funding and insurance.
- 127. Civil liability and proceedings; injunction.
- 128. Access, interference, and protests.
- 129. — In general.
- 130. — Remedies; injunction.
- 131. — Crimes and prosecutions.
- 132. Contraceptives and birth control.
- 133. — In general.
- 134. — Advertising; exhibition and display.
- 135. — Possession or use.
- 136. — Sale and distribution.
- 137. — Emergency contraception; abortifacients.
- 138. — Minors.
- 138.5. — Family planning; funding and services.
- 139. — Civil liability and proceedings; injunction.
- 140. — Crimes and prosecutions.
- 141. Abortion offenses; nature and elements.
- 142. — In general.
- 143. — Advertising and solicitation.
- 144. — Information and consent; counseling.
- 145. — Production, procurement or inducement in general.

6. ABSTRACTS OF TITLE

- 146. — Methods, modes and procedures in general.
- 147. — Instrument or tool.
- 148. — Medication or noxious substance.
- 149. — Minors; parental notification.
- 150. — Disposal and experimentation.
- 151. Attempts.
- 152. Defenses.
- 153. — In general.
- 154. — Impossibility in general.
- 155. — Absence of pregnancy.
- 156. — Fetal age and viability; trimester.
- 157. — Health of patient; necessity.
- 158. — Consent of patient or guardian.
- 159. — Immunity in general.
- 160. — Professional status or license.
- 161. Persons liable.
- 162. Indictment and information.
- 163. — In general.
- 164. — Advertising and solicitation.
- 165. — Information and consent; counseling.
- 166. — Production, procurement or inducement in general.
- 167. — Methods, modes and procedures in general.
- 168. — Instrument or tool.
- 169. — Medication or noxious substance.
- 170. — Minors; parental notification.
- 171. — Disposal and experimentation.
- 172. — Attempts.
- 173. — Issues, proof and variance.
- 174. Evidence.
- 175. — In general.
- 176. — Presumptions and burden of proof.
- 177. — Admissibility.
- 178. — Dying declarations.
- 179. — Weight and sufficiency of evidence.
- 180. — Corroboration.
- 181. Trial.
- 182. — In general.
- 183. — Questions for jury.
- 184. — Instructions.
- 185. — Verdict.
- 186. Sentence and punishment.

5. ABSENTEES**SUBJECTS INCLUDED**

Persons residing out of the state or who have departed from the state, having no representative therein

Rights and liabilities of such persons in general

Control and protection of property of such persons

Legal proceedings affecting absentees

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Confiscation of property of absentees as public enemies, see **WAR AND NATIONAL EMERGENCY**

Nonresidence, absence, etc., as grounds for arrest, attachment or other special remedies, see **ARREST, CREDITORS' REMEDIES**, and other specific topics

Representation of absent parties in actions in general, see **PARTIES, EQUITY**

1. Power to regulate.
2. Who are absentees.
3. Statutory provisions.
4. Jurisdiction of courts.
5. Curators or other representatives.
6. Property and conveyances.
7. Actions.

6. ABSTRACTS OF TITLE**SUBJECTS INCLUDED**

Brief statements of the history of the title to real property, and summaries of the conveyances or other instruments, and facts affecting the title to such property or subjecting it to incumbrances, liens or other liabilities, which are usually prepared to show the titles of vendors, mortgagors, etc.

Nature, requisites and incidents of such abstracts

Liabilities of those preparing or furnishing abstracts

6. ABSTRACTS OF TITLE

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Insurance of titles, see INSURANCE

Rights and liabilities, in respect of such abstracts of parties to—

Mortgages, see MORTGAGES AND DEEDS OF TRUST

Sales, see VENDOR AND PURCHASER

1. Requisites, making, and sufficiency.
2. Abstract companies.
3. Rights, duties, and liabilities of examiners of title.

7. ACCESSION

SUBJECTS INCLUDED

Additions or increments to property, real or personal, or augmentation of its value otherwise than by intermingling goods of the same kind

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Accretion or reliction, additions to the soil by, see WATER LAW

Improvements placed on real property, see IMPROVEMENTS

Intermixture of goods of the same kind belonging to different owners, see CONFUSION OF GOODS

1. Nature and effect in general.
2. Rights and remedies of owners and others interested.

8. ACCORD AND SATISFACTION

SUBJECTS INCLUDED

Agreements for discharge of contracts or satisfaction for injuries by payment, perform-

ance, or delivery and acceptance of something different from what might legally be claimed

Nature, requisites, validity, operation, and effect of such agreements and of performance thereof

Pleading accord and satisfaction, and proof thereof as a defense

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Compromises by mutual concessions and agreements for settlement of balances, see COMPROMISE AND SETTLEMENT

Relinquishment of rights or claims, see RELEASE

1. Nature and requisites in general.
2. Subject-matter.
 - (5). In general.
 - (1). Judgment.
 - (2). Matters covered by agreement or receipt.
3. Persons between whom made.
 - (5). In general.
 - (1). Accord and satisfaction accepted from third person.
 - (2). Satisfaction by one of joint debtors or wrongdoers.
 - (3). Authority of person accepting satisfaction.
4. Form of agreement of accord.
5. Consideration of accord in general.
6. Part payment.
7. — In general.
 - (1). In general.
 - (2). Statutory regulations.
 - (3). Effect of mistake as to amount.
 - (4). Payment by third person.
8. — Consideration in general.
 - (1). In general.
 - (2). Claims against insolvents.
9. — By bills, notes, or checks.
10. — Disputed or unliquidated claims.
 - (1). In general.
 - (2). Claims against county.
 - (3). Claims against municipality.
11. — Conditioned on acceptance as payment in full.
 - (1). In general.
 - (2). Remittances on condition.

9. ACCOUNT

- (3). Effect of protest.
- 12. — Effect of receipt in full.
 - (1). In general.
 - (2). Effect of protest.
 - (3). Release under seal.
- 13. Conveyance or surrender of property, rights, or claims.
- 14. Giving additional or different security.
- 15. Execution of accord as satisfaction.
- 15.1. — In general.
- 16. — Necessity in general.
- 17. — Effect of accord without satisfaction.
- 18. — Sufficiency in general.
- 19. — Acceptance of new agreement.
- 20. Validity.
- 21. Rescission by parties.
- 22. Impeaching or setting aside.
 - (1). In general.
 - (2). Necessity of restoration of money received.
- 23. Operation and effect of satisfaction.
- 24. Rights and liabilities of parties as to third persons.
- 25. Pleading.
 - (.5). In general.
 - (1). Necessity of pleading specially.
 - (2). Sufficiency of allegations.
 - (3). Demurrer and replication.
 - (4). Issues and proof.
- 26. Evidence.
 - (.5). In general.
 - (1). Presumptions and burden of proof.
 - (2). Admissibility.
 - (3). Sufficiency.
- 27. Questions for jury.

9. ACCOUNT**SUBJECTS INCLUDED**

Actions to compel the rendering of accounts, more particularly common law actions of account or account render and similar statutory remedies and equitable actions of

account, and operation and effect of accounts rendered and settled, either in such actions or by voluntary act of the parties

Nature and scope of the remedy to obtain an account in general

Grounds of such action and defenses thereto

By and against whom such actions may be maintained

Jurisdiction to compel accounting and proceedings therefor, and proceedings before auditors, referees, masters, etc.

Incidental relief

Judgments or decrees and enforcement thereof

Review of proceedings

Opening, correcting, surcharging, and falsifying accounts in general

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Accounts stated, actions on, see ACCOUNT STATED

Admissibility and effect of accounts in evidence, see EVIDENCE

Annexing or furnishing copies of accounts alleged in pleading, see PLEADING

Incidental to other relief, accounting as, see PRETRIAL PROCEDURE, INJUNCTION, PATENTS and other specific topics

Open accounts, actions on, see ACCOUNT, ACTION ON

Persons in particular relations to others or acting in particular fiduciary capacities, remedies for accounting by, see EXECUTORS AND ADMINISTRATORS, PRINCIPAL AND AGENT, PARTNERSHIP, TRUSTS, and other specific topics

Reference of actions involving accounts, see REFERENCE

Settlements of balance of mutual accounts, see COMPROMISE AND SETTLEMENT

I. RIGHT OF ACTION AND DEFENSES, ¶1-10.

II. PROCEEDINGS AND RELIEF, ¶11-22.

III. OPERATION AND EFFECT OF ACCOUNTING, ¶24-26.

I. RIGHT OF ACTION AND DEFENSES.

- 1. Nature and grounds of right to an account.

9. ACCOUNT**I. RIGHT OF ACTION AND DEFENSES. (Cont'd)**

2. Agreement to render account.
3. Joint ownership or interest in property or profits.
4. Fiduciary relations.
5. Mutual accounts.
6. Complicated transactions or circumstances.
7. Fraudulent or other wrongful acts or conduct.
8. Defenses.
9. Persons entitled to an account.
10. Persons liable to account.

II. PROCEEDINGS AND RELIEF.

11. Action of account or account render.
12. Equitable jurisdiction.
13. Equitable actions.
 - 13.1. — In general.
14. — Nature and scope of remedy.
15. — Limitations and laches.
See also LIMITATION OF ACTIONS.
16. — Parties.
17. — Pleading.
 - (.5). In general.
 - (1). Bill, complaint, or petition.
 - (2). Amendment.
 - (3). Cross-bill.
 - (4). Plea, answer, and replication.
 - (5). Issues, proof, and variance.
18. — Evidence.
19. — Trial or hearing and interlocutory judgment or decree.
20. — Taking and stating account, and reference therefor.
 - (.5). In general.
 - (1). Reference and proceedings thereunder.
 - (2). Report and findings and proceedings thereon.
 - (3). Adjustment of account.
21. — Incidental relief.
22. — Final judgment or decree and review.

III. OPERATION AND EFFECT OF ACCOUNTING.

24. Conclusiveness of judicial settlement.
25. Opening and correcting.
26. Surcharging and falsifying.

10. ACCOUNT, ACTION ON**SUBJECTS INCLUDED**

Actions on open accounts, actions of book account or book debts, and similar statutory actions founded on accounts as distinguished from other forms of action

Nature and scope of the remedy in general

Grounds of such actions and defenses thereto

By and against whom they may be maintained

Proceedings therein

Review of proceedings

Costs in such actions

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Actions to compel accounting, see ACCOUNT, and titles of persons liable to account

Admissibility and effect of accounts and books of account, etc., in evidence, see EVIDENCE

Annexing or furnishing copies of accounts alleged in pleadings in general, see PLEADING

Effect of stating and settling accounts and actions on account stated, see ACCOUNT STATED

Reference of actions involving accounts, see REFERENCE

1. Open accounts in general.
 - 1.1. — In general.
2. — Nature and grounds of action.
3. — Requisites of account.
4. — Defenses.
5. — Filing or delivery of copy of account.
6. — Pleading.
 - (.5). In general.
 - (1). Declaration, complaint, or petition.
 - (2). Plea, answer, or affidavit of defense.
 - (3). Bill of particulars or copy of account.
 - (4). Amendment.
 - (5). Issues, proof, and variance.
7. — Evidence.
8. — Trial, judgment, and review.
9. Verified accounts.
 - 9.1. — In general.

11A. ACCOUNTANTS

10. — Nature and subject-matter.
11. — Requisites of affidavit.
12. — Conclusiveness of verification, and defenses.
13. — Pleading.
14. — Evidence.
15. — Trial, judgment, and review.
16. Book account or book debt.
- 16.1. — In general.
17. — Nature and grounds of action.
18. — Charges in book.
19. — Defenses.
20. — Parties.
21. — Pleading.
22. — Evidence.
23. — Trial and judgment for account.
24. — Proceedings before auditors or referees.
25. — Final judgment and review.

11. ACCOUNT STATED

SUBJECTS INCLUDED

Obligations implied or imposed by law to pay the balance of an account rendered or stated between parties and admitted to be due, independent of an express promise of payment

Nature, requisites, incidents, operation and effect of such statements of accounts

Rights, liabilities, and remedies of the parties

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Accounting, proceedings to compel, and judicial settlement of accounts, see ACCOUNT and titles of persons, officers, etc., liable to account

Actions on accounts as such, see ACCOUNT, ACTION ON

Assumpsit, proceedings in actions of, see ASSUMPSIT, ACTION OF

Pleadings, accounts alleged in, annexed to, or filed with, see PLEADING

Settlements of mutual accounts between parties, see COMPROMISE AND SETTLEMENT

1. Nature and subject-matter in general.
2. Persons between whom account may be stated.
3. Previous indebtedness and transactions.
4. Mode of stating and settling.
5. Assent of parties in general.
6. Implied assent of party to be charged.
 - (1). In general.
 - (2). Retention without objection in general.
 - (3). Account between bank and customer.
 - (4). Time of retention.
7. Scope and operation in general.
8. Conclusiveness.
9. Obligation to pay balance.
11. Opening and correcting.
12. Surcharging and falsifying.
13. Vacating and setting aside.
14. Right of action.
15. Defenses.
16. Time to sue.
See also LIMITATION OF ACTIONS.
17. Parties.
18. Pleading.
 - (1). In general.
 - (2). Issues, proof, and variance.
19. Evidence.
 - (5). In general.
 - (1). Presumptions and burden of proof.
 - (2). Admissibility.
 - (3). Weight and sufficiency.
20. Trial and judgment.
 - (5). In general.
 - (1). Questions for court or jury.
 - (2). Instructions.
 - (3). Findings and judgment.

11A. ACCOUNTANTS

SUBJECTS INCLUDED

Regulation and conduct of the profession of accountancy

11A. ACCOUNTANTS

License or certification of accountants

Contracts for accounting services and performance of such services

Duties and liabilities of accountants to those who employ them or to third persons

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Employee benefit and pension plans, see LABOR AND EMPLOYMENT

Securities laws, duties and liabilities under, see SECURITIES REGULATION

1. In general.
2. Constitutional and statutory provisions.
3. Regulation; license or certificate.
 - 3.1. — In general.
4. — Eligibility and qualifications.
5. — Discipline; suspension or revocation.
6. Contracts, employment, and compensation.
 - 6.1. — In general.
7. — Unlicensed persons.
8. — Performance of contract; duties and liabilities.
9. Duties and liabilities to third persons.
10. Actions.
 - 10.1. — In general.
11. — Damages.

12. ACKNOWLEDGMENT**SUBJECTS INCLUDED**

Formal declarations of the genuineness of an instrument in writing made by a person executing it, or proof of due execution of such an instrument, made by an attesting witness or other person, before a competent court or officer, to establish the validity of such instrument, or to entitle it to be admitted in evidence or to be recorded

Nature and necessity of making acknowledgment

Making, taking, form, and requisites of such acknowledgments

Form and requisites of certificates of acknowledgment

Amendment of defects in certificates

Conclusiveness and effect of acknowledgments and of certificates of acknowledgment

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Effect of record of acknowledgment with instrument, see RECORDS

Evidence, record or transcript of record of unacknowledged or defectively acknowledged instrument as, see EVIDENCE

- I. NATURE AND NECESSITY, ¶1-7.
- II. TAKING AND CERTIFICATE, ¶8-48.
- III. OPERATION AND EFFECT, ¶49-57.
- IV. PLEADING AND EVIDENCE, ¶58-62.

I. NATURE AND NECESSITY.

1. Nature and functions in general.
2. What law governs.
3. Statutory provisions.
4. Instruments to be acknowledged or proved.
5. Unacknowledged instruments.
6. Defectively acknowledged instruments.
 - (1). In general.
 - (2). Deeds and conveyances.
 - (3). By married women.
7. Filling blanks or altering instrument without acknowledgment.

II. TAKING AND CERTIFICATE.

8. Nature of officer's act in general.
9. Place of taking.
10. Time of making.
11. Persons who may make acknowledgment.
12. Witnesses who may make proof.
13. Compelling acknowledgment or proof.
14. Authority to take.
15. — In general.
16. — Particular officers.
17. — In other states.
18. — In other countries.
19. — Extraterritorial authority.
20. — Disqualification of officer.
 - (1). In general.
 - (2). Grantee, mortgagee, or trustee.
 - (3). Agent, officer, or stockholder of party in interest.

13. ACTION

II. TAKING AND CERTIFICATE.(Cont'd)

21. — Taking by one of several grantees.
22. Ascertainment of identity of person making acknowledgment or proof.
23. Mode of taking acknowledgment.
24. — In general.
25. — Of married woman.
26. — Of particular persons or officers.
27. Mode of taking proof.
28. Making and requisites of certificate.
- 28.1. — In general.
29. — Making and form in general.
30. — Venue.
31. — Date.
32. — Recitals as to authority of officer.
33. — Signature and seal.
34. — Record.
35. Contents of certificate.
- 35.1. — In general.
36. — Matters certified in general.
 - (1). In general.
 - (2). Knowledge of officer as to identity of acknowledgor.
37. — Acknowledgments of married women.
 - (1). In general.
 - (2). Separate examination and explanation.
38. — Acknowledgments of particular persons or officers.
39. Further certificate of authenticity and conformity to law.
40. Errors and defects in certificate.
41. — In general.
42. — Amendment.
43. Curing defects.
- 43.1. — In general.
44. — Subsequent acknowledgment.
45. — Proof by witnesses.
46. — Judicial proceedings.
47. — Curative statutes.
48. Liability of officer defectively or falsely certifying acknowledgment.

III. OPERATION AND EFFECT.

49. Construction and operation of certificate in general.
50. Surplusage in certificate.
51. Unnecessary acknowledgments.

III. OPERATION AND EFFECT.(Cont'd)

52. Authenticity of instrument in general.
53. Admissibility of instrument to record.
54. Admissibility of instrument in evidence.
55. Conclusiveness of certificate.
 - (1). In general.
 - (2). Certificates of acknowledgment by married women.
56. Grounds of impeaching or contradicting certificate.
57. Acknowledgment under laws of other state or foreign country.

IV. PLEADING AND EVIDENCE.

58. Pleading.
59. Presumptions and burden of proof.
60. Evidence of fact of acknowledgment.
61. Evidence to aid certificate.
62. Evidence to impeach or contradict certificate.
 - (.5). In general.
 - (1). Admissibility in general.
 - (2). Weight and sufficiency in general.
 - (3). Impeaching testimony by officer taking acknowledgment.
 - (4). Impeaching testimony by grantor or mortgagor.

13. ACTION

SUBJECTS INCLUDED

Nature, grounds and incidents of civil actions in general
What constitute causes of action and defenses in general
Who are entitled to sue and to defend
Distinctions between civil and criminal remedies and legal and equitable remedies, between actions on contract and actions of tort, and between particular forms of actions
Cumulative and exclusive remedies
Joinder and splitting of causes of action
Consolidation and severance of actions

13. ACTION

Demand or notice before suit, leave to sue, and other conditions precedent

Commencement, prosecution, and termination of actions in general

Stay of proceedings in actions

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Administrative officers and agencies, proceedings of, and judicial review or enforcement thereof, see **ADMINISTRATIVE LAW AND PROCEDURE** and specific topics

Admiralty, suits in, see **ADMIRALTY**

Appearance in actions, see **APPEARANCE**

Breach of contract, actions for, see **CONTRACTS, BONDS, BILLS AND NOTES**, and other specific topics

Election between actions, see **ELECTION OF REMEDIES**

Equity, suits in, see **EQUITY**

Federal courts, civil procedure in, see **FEDERAL CIVIL PROCEDURE**

Injuries to person or property, actions for, see **TORTS** and titles of particular wrongs

Insolvent laws or bankrupt laws, proceedings under, see **BANKRUPTCY, CREDITORS' REMEDIES** ¶1183

Other proceedings in actions, see **PLEADING, MOTIONS, TRIAL, JUDGMENT, COSTS** and other specific topics

Particular classes of persons, actions by or against, see **ALIENS, IMMIGRATION, AND CITIZENSHIP, INFANTS**, and other specific topics—

Corporations, see **CORPORATIONS AND BUSINESS ORGANIZATIONS**

Governments, see **UNITED STATES, STATES, TERRITORIES**

Other political or municipal bodies or officers, see **MUNICIPAL CORPORATIONS, COUNTIES, TOWNS, EDUCATION, PUBLIC EMPLOYMENT**

Partners, see **PARTNERSHIP**

Unincorporated associations and companies, see **ASSOCIATIONS, CORPORATIONS AND BUSINESS ORGANIZATIONS XV**

Particular forms of action, see specific topics

Particular forms of relief, actions for, see **DECLARATORY JUDGMENT, DIVORCE, EJECTMENT, REPLEVIN,**

SPECIFIC PERFORMANCE, and other specific topics

Particular kinds of property, actions involving or affecting, see **MINES AND MINERALS, WATER LAW, EASEMENTS, PATENTS**, and other specific topics

Particular occupations or transactions, actions incident to, see **INSURANCE, CARRIERS, RAILROADS, SHIPPING**, and other specific topics

Particular provisional or extraordinary remedies in actions, see **ARREST, CREDITORS' REMEDIES, INJUNCTION, RECEIVERS**, and other specific topics

Particular remedies for correction of errors and review of decisions, see **EXCEPTIONS, BILL OF, NEW TRIAL, APPEAL AND ERROR** and other specific topics

Parties to actions, see **PARTIES**

Penal actions, see **PENALTIES**

Pendency of action, effect of, see **LIS PENDENS, ABATEMENT AND REVIVAL**

Persons in particular personal relations, actions between, by or against, see **MARRIAGE AND COHABITATION, EXECUTORS AND ADMINISTRATORS, LABOR AND EMPLOYMENT**, and other specific topics

Place for bringing or trial of actions, see **VENUE**

Process in actions, see **PROCESS**

Submission of controversies without actions to —

Arbitrators, see **ALTERNATIVE DISPUTE RESOLUTION**

Courts, see **SUBMISSION OF CONTROVERSY**

Time limited for commencement of actions, see **LIMITATION OF ACTIONS**

Wills, proceedings for probate or contest, see **WILLS**

I. GROUNDS AND CONDITIONS PRECEDENT, ¶1-15.

II. NATURE AND FORM, ¶16-37.

III. JOINDER, SPLITTING, CONSOLIDATION, AND SEVERANCE, ¶38-60.

IV. COMMENCEMENT, PROSECUTION, AND TERMINATION, ¶61-71.

13. ACTION**I. GROUNDS AND CONDITIONS PRECEDENT.**

1. Nature and elements of cause of action and suspension of remedies.
2. Acts or omissions constituting causes of action in general.
3. Statutory rights of action.
4. Illegal or immoral transactions.
5. Criminal acts.
6. Moot, hypothetical or abstract questions.
Declaratory judgments, see DECLARATORY JUDGMENT.
7. Motive in bringing action.
8. Frivolous or collusive actions.
9. Unnecessary or vexatious actions.
10. Conditions precedent in general.
11. Notice, demand, and tender.
12. Defenses in general.
13. Persons entitled to sue.
14. Persons liable.
15. Same person plaintiff and defendant.

II. NATURE AND FORM.

16. Nature of remedy by action.
17. What law governs.
18. Civil or criminal.
19. Remedial or penal.
20. Action or special proceeding.
21. Legal or equitable.
- 21.1. — In general.
22. — Nature of action.
23. — Equitable relief in action at law.
24. — Equitable defenses in action at law.
25. — Under codes and practice acts.
 - (.5). In general.
 - (1). Abolition of distinction as to form.
 - (2). Nature of action.
 - (3). Equitable and legal relief in same action.
 - (4). Equitable defenses in action for legal relief.
26. Contract or tort.
- 26.1. — In general.
27. — Nature of action.
 - (1). In general.
 - (2). Special contractual relation in general.
 - (3). Carrier and shipper of goods or live stock.
 - (4). Carrier and passenger.

II. NATURE AND FORM.(Cont'd)

- (5). Agent, broker, banker, trustee, or other fiduciary.
- (6). Bailments and pledges.
28. — Waiver of tort.
29. Forms of action at common law.
- 29.1. — In general.
30. — Distinctions as to form.
31. — Waiver.
32. — Abolition of distinctions.
33. Statutory remedies.
34. — In general.
35. — Cumulative or exclusive remedies.
36. Change of character or form.
37. Error as to character or form.

III. JOINDER, SPLITTING, CONSOLIDATION, AND SEVERANCE.

38. Single and entire cause of action in general.
 - (1). In general.
 - (2). Different forms of relief.
 - (3). Different kinds of injury from same act.
 - (4). Separate torts or wrongful acts and words of characterization.
 - (5). Separate contracts or instruments.
 - (6). Parties and interests involved.
39. Joinder of causes of action at common law.
40. — In general.
41. — Forms of action.
42. — Parties and interests involved.
43. Joinder of causes of action under codes and practice acts.
- 43.1. — In general.
44. — Forms of action.
45. — Nature and grounds of action in general.
 - (1). In general.
 - (2). Actions to recover property.
 - (3). Injuries to person, property, or reputation.
 - (4). Causes of action arising out of contract.
46. — Legal and equitable.
47. — Contract and tort.
48. — Claims arising out of same transaction or transactions connected with same subject of action.

13. ACTION**III. JOINDER, SPLITTING, CONSOLIDATION, AND SEVERANCE.(Cont'd)**

- (1). In general.
- (2). Claims arising from wrongful or tortious acts.
- (3). Claims arising from contract.
- 49. — Complete remedy.
- 50. — Parties and interests involved.
 - (1). In general.
 - (2). Claims or liabilities in different capacities.
 - (3). Joint or common interest of plaintiffs.
 - (4). Joint or common liability of defendants.
 - (4.1). — In general.
 - (5). — Liabilities on contracts.
 - (6). — Liabilities for torts.
 - (7). — Ownership or possession of property involved.
 - (8). — Executor or administrator and heirs or others interested in estate.
 - (9). — Corporation or partnership and members, officers, and other interested persons.
 - (10). — Actions for equitable relief.
- 52. Joinder of causes of action under civil law.
- 53. Splitting causes of action.

See also JUDGMENT ¶585(4), 591-599. Separate trials in same cause, see TRIAL ¶3.

 - (1). In general.
 - (2). Actions ex delicto.
 - (3). Actions ex contractu.
- 54. Consolidation of actions.
- 55. — In general.
- 56. — Power to consolidate.
- 57. — Actions which may be consolidated.
 - (1). In general.
 - (2). Affected by parties involved.
 - (3). Common questions of law or fact; same transaction or series of transactions.
 - (4). Circumstances precluding consolidation in general; prejudice.
 - (5). Tort actions.
 - (6). Actions in different courts.
 - (7). Pendency and condition of actions.
- 58. — Proceedings for consolidation.

III. JOINDER, SPLITTING, CONSOLIDATION, AND SEVERANCE.(Cont'd)

- 59. — Operation and effect.
- 60. Severance of actions.

IV. COMMENCEMENT, PROSECUTION, AND TERMINATION.

- 61. Accrual of cause of action.
- 62. Premature commencement.
- 63. Delay in commencing.
- 64. Proceedings constituting commencement.
- 65. Rights and defenses arising after commencement of action.
- 66. Course of procedure in general.
- 67. Stay of proceedings.
- 68. — In general.
- 69. — Another action pending.
 - (1). In general.
 - (2). Actions in different jurisdictions in general.
 - (3). Actions in state and federal courts.
 - (4). Identity of parties, subject matter, and relief.
 - (5). Nature and subject matter of actions in general.
 - (6). Injunction and declaratory relief.
 - (7). Actions and administrative proceedings.
- 70. Abandonment.
- 71. Termination.

14. ACTION ON THE CASE**SUBJECTS INCLUDED**

Actions of trespass on the case, as distinguished from other forms of action

Nature and scope of the remedy in general

Grounds of such actions and defenses thereto

By and against whom such actions may be maintained

Proceedings therein

15A. ADMINISTRATIVE LAW AND PROCEDURE

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Distinctions between forms of action, see ACTION

Election between remedies, see ELECTION OF REMEDIES

Particular classes of liabilities on which actions may be maintained, see NEGLIGENCE, FRAUD, and other specific topics

1. Nature and grounds of action.
2. Persons entitled to sue.
3. Persons liable.
4. Pleading.
5. Evidence.
6. Trial, judgment, and review.

15. ADJOINING LANDOWNERS

SUBJECTS INCLUDED

Mutual rights, duties, and liabilities of proprietors of adjoining lands arising from or incident to the contiguity of their lands

Ownership of trees, etc., on boundaries

Lateral support, excavations, embankments, and structures affecting the adjoining land

Encroachments

Obstructions of light, air or view

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Boundaries, rights and liabilities respecting, see BOUNDARIES

Easements, see EASEMENTS

Fences, rights and liabilities respecting, see FENCES

Mines, rights and liabilities respecting, see MINES AND MINERALS

Party walls, rights and liabilities respecting, see PARTY WALLS

Surface and subterranean waters, rights and liabilities respecting, see WATER LAW

1. Nature of mutual rights and duties.
2. Lateral support.

- 2.1. — In general.
3. — Land in natural state.
4. — Buildings and other structures.
 - (1). In general.
 - (2). Right to excavate.
 - (3). Degree of care required and acts constituting negligence.
 - (4). Notice of intention to excavate.
 - (5). Protection of adjoining walls.
 - (6). Persons liable for injuries.
 - (7). Actions for injuries.
5. Trees and plants on or near boundary.
6. Excavations, embankments, and structures affecting adjoining land.
7. Negligence as to premises affecting adjoining land.
8. Use of premises affecting adjoining land.
9. Encroachments.
 - (5). In general.
 - (1). Nature and extent of liability.
 - (2). Remedies and procedure in general.
 - (3). Damages.
10. Right to and obstruction of light, air, or view.
 - (1). In general.
 - (2). Right to construct windows.
 - (3). Motive in erecting obstruction.

15A. ADMINISTRATIVE LAW AND PROCEDURE

SUBJECTS INCLUDED

General principles of law governing the status, organization, powers and proceedings of state and federal administrative agencies, officers and agents, especially as affecting private persons and property

Judicial review and enforcement of decisions of such agencies, officers and agents

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Particular administrative agencies, officers and agents, especially with respect to particular subjects—

15A. ADMINISTRATIVE LAW AND PROCEDURE

Corporations, see CORPORATIONS
AND BUSINESS ORGANIZATIONS

Federal old age, survivors, and disability
benefits, see SOCIAL SECURITY

Interstate commerce, see COMMERCE

Labor relations, see LABOR AND EM-
PLOYMENT

Licensing, see LICENSES

Securities regulation, see SECURITIES
REGULATION

Unfair trade practices, see ANTITRUST
AND TRADE REGULATION

Utility regulation, see CARRIERS,
PUBLIC UTILITIES, etc.

Workers' compensation, see WORKERS'
COMPENSATION

I. IN GENERAL, ¶1-100.**II. ADMINISTRATIVE AGENCIES, ¶101-199.****III. JUDICIAL REMEDIES PRIOR TO OR
PENDING ADMINISTRATIVE
PROCEEDINGS, ¶200-300.****IV. POWERS AND PROCEEDINGS OF
ADMINISTRATIVE AGENCIES,
OFFICERS AND AGENTS, ¶301-650.****(A) IN GENERAL, ¶301-340.****(B) INVESTIGATIONS, ¶341-380.****(C) RULES, REGULATIONS, AND
OTHER POLICYMAKING, ¶381-440.****(D) HEARINGS AND ADJUDICA-
TIONS, ¶441-650.****V. JUDICIAL REVIEW OF ADMINIS-
TRATIVE DECISIONS, ¶651-900.****(A) IN GENERAL, ¶651-700.****(B) DECISIONS AND ACTS REVIEWA-
BLE, ¶701-720.****(C) PROCEEDINGS FOR REVIEW, ¶721-740.****(D) SCOPE OF REVIEW IN GENERAL, ¶741-780.****(E) PARTICULAR QUESTIONS, RE-
VIEW OF, ¶781-810.****(F) DETERMINATION, ¶811-900.****VI. JUDICIAL ENFORCEMENT OF AD-
MINISTRATIVE DECISIONS, ¶901-938.****I. IN GENERAL.**

1. In general.

2. Nature and scope of administrative law.

2.1. — In general.

I. IN GENERAL. (Cont'd)

3. — Public interest, convenience or neces-
sity.

4. Constitutional and statutory provisions in
general.

4.1. — In general.

5. — Agencies and proceedings affected.

6. Validity of statutes.

6.1. — In general.

7. — Administrative agencies.

8. — Separation of administrative and oth-
er powers in general.

9. — Delegation of powers.

10. — Powers and proceedings of adminis-
trative agencies in general.

11. — Investigations.

12. — Rules and regulations.

13. — Hearings and adjudications.

14. — Judicial review of administrative de-
cisions.

15. — Judicial enforcement of administra-
tive decisions.

16. Repeal of statutes.

17. Retroactivity of statutes.

II. ADMINISTRATIVE AGENCIES.

*Administrative officers and agents, see PUBLIC EM-
PLOYMENT.*

101. In general.

102. Creation of agencies and offices.

103. Status and character.

103.1. — In general.

104. — Administrative.

105. — Executive.

106. — Legislative.

107. — Judicial in general.

108. — Quasi-judicial.

120. Attorneys.

121. Organization of administrative agencies.

122. Mode of action.

122.1. — In general.

123. — Necessity of formal action.

124. Meetings in general.

125. Number requisite to action.

126. Voting; determination of will of adminis-
trative agency.

127. Minutes and records.

128. Abolition.

129. Reorganization.

130. Bonds.

15A. ADMINISTRATIVE LAW AND PROCEDURE**II. ADMINISTRATIVE AGENCIES.(Cont'd)**

- 131. Expenses.
- 132. De facto agencies.
- 133. Actions.

III. JUDICIAL REMEDIES PRIOR TO OR PENDING ADMINISTRATIVE PROCEEDINGS.

Separation of powers, see CONSTITUTIONAL LAW XX. Proceedings before particular agencies, see AVIATION, ELECTRICITY, GAS, or other particular topics.

- 200. In general.
- 228.1. Primary jurisdiction.
- 229. Exhaustion of administrative remedies.
Exhaustion of administrative remedies as prerequisite to suit for declaratory relief, injunction, or mandamus, see DECLARATORY JUDGMENT, INJUNCTION, and MANDAMUS.
- 230. Damages, actions for.

IV. POWERS AND PROCEEDINGS OF ADMINISTRATIVE AGENCIES, OFFICERS AND AGENTS.**(A) IN GENERAL.**

- 301. In general.
- 302. Due process of law in general.
See also, CONSTITUTIONAL LAW XXVII.
- 303. Powers in general.
- 303.1. — In general.
- 304. — Continuing nature.
- 305. — Statutory basis and limitation.
- 306. — Territorial limitation.
- 307. — Duty to take notice of limitation of powers.
- 308. — Presumptions.
- 309. Proceedings in general.
- 309.1. — In general.
- 310. — Statutory basis and limitation.
- 311. — Judicial procedure; applicability in general.
- 312. — Judicial procedure; applicability of rules of pleading.
- 313. — Judicial procedure; applicability of rules of evidence.
- 314. Bias, prejudice or other disqualification to exercise powers.
- 315. Concurrent and conflicting powers.
- 316. Constitutional questions.
- 317. Contempt.
- 318. Contracts; effect of private agreements on administrative powers.

IV. POWERS AND PROCEEDINGS OF ADMINISTRATIVE AGENCIES, OFFICERS AND AGENTS.(Cont'd)

- 319. Contracts; construction, enforcement and abrogation.
- 320. Custom and usage.
- 321. De facto agencies, officers and agents.
- 322. Delegation or surrender of powers.
- 322.1. — In general.
- 323. — By contract.
- 324. Discretion.
- 325. Implied powers.
- 326. Law questions in general.
- 327. Licenses and permits.
- 328. Ministerial powers.
- 329. Sanctions.
- 331. Subordinates; representation of superior authority.
- 332. Unexercised powers.

(B) INVESTIGATIONS.

- 341. In general.
- 342. Grounds.
- 343. Nature and scope.
- 343.1. — In general.
- 344. — Matters subject to investigation.
- 345. — Persons subject to investigation.
- 346. Power to make.
- 346.1. — In general.
- 347. — Officers making.
- 348. Duty to investigate.
- 349. Initiation of proceedings for investigation.
- 350. Order for investigation.
- 351. Effect of pendency of investigation.
- 352. Parties.
- 353. Notice.
- 354. Objections.
- 355. Evidence.
- 356. Witnesses.
- 356.1. — In general.
- 357. — Subpoenas in general.
- 358. — Subpoenas duces tecum.
- 359. Discovery.
- 360. Hearing.
- 360.1. — In general.
- 361. — Attorney, representation by.
- 362. Rehearing.
- 363. Findings.

15A. ADMINISTRATIVE LAW AND PROCEDURE**IV. POWERS AND PROCEEDINGS OF ADMINISTRATIVE AGENCIES, OFFICERS AND AGENTS.(Cont'd)**

- 364. Record.
- 365. Report.
- 366. Publication of results.
- 367. Effect of investigation.
- 367.1. — In general.
- 368. — Power to act after investigation.
- 369. Contempt.
- 370. Costs and expenses.

(C) RULES, REGULATIONS, AND OTHER POLICYMAKING.

- 381. In general.
- 382. Nature and scope.
- 382.1. — In general.
- 383. — Matters subject.
- 384. — Persons subject.
- 385. Power to make.
- 385.1. — In general.
- 386. — Statutory basis.
- 387. — Statutory limitation.
- 388. — Officers making.
- 389. Duty to make.
- 390. Validity.
Certainty, definiteness, vagueness, and overbreadth, see CONSTITUTIONAL LAW.
- 390.1. — In general.
- 391. — Determination of validity; presumptions.
- 392. Proceedings for adoption.
- 392.1. — In general.
- 393. — Parties.
- 394. — Notice and comment, necessity.
- 395. — Notice and comment, sufficiency.
- 396. — Pleadings.
- 397. — Evidence.
- 398. — Witnesses in general.
- 399. — Subpoenas.
- 400. — Hearing in general.
- 401. — Presiding officers.
- 402. — Findings.
- 403. Adoption.
- 404. Form.
- 404.1. — In general.
- 405. — Statement of purpose.
- 405.5. — Economic or social impact statement.
- 406. Codification.

IV. POWERS AND PROCEEDINGS OF ADMINISTRATIVE AGENCIES, OFFICERS AND AGENTS.(Cont'd)

- 407. Publication or notice after adoption.
- 407.1. — In general.
- 408. — Necessity.
- 409. — Sufficiency.
- 410. Filing.
- 411. Record.
- 412. Construction.
- 412.1. — In general.
- 413. — Administrative construction.
- 414. — Legislative construction.
- 415. Conflicting rules and regulations.
- 416. Effect.
- 416.1. — In general.
- 417. — Force of law.
- 418. — Effective date.
- 419. — Retroactivity.
- 420. Amendment.
- 421. Repeal.
- 422. Expiration.
- 423. Enforcement.
- 423.1. — In general.
- 424. — Contempt.
- 425. Excusing noncompliance.
- 426. Collateral attack.
- 427. Pleading and proving rules and regulations.
- 428. Administrative construction of statutes.
Executive construction of statutes, see STATUTES III(J).
- 429. — In general.
- 430. — Power of agency in general.
- 431. — Deference to agency in general.
- 432. — Plain, literal, or clear meaning; ambiguity.
- 433. — Permissible or reasonable construction.
- 434. — Consistent or longstanding construction; approval or acquiescence.
- 435. — Erroneous construction; conflict with statute.
- 436. — Reenactment or incorporation of statute construed, effect of.
- 437. — Particular agencies, officers, and agents, construction by.
- 438. — Particular statutes and contexts.
 - (1). In general.
 - (2). Courts, actions, and proceedings.

15A. ADMINISTRATIVE LAW AND PROCEDURE**IV. POWERS AND PROCEEDINGS OF ADMINISTRATIVE AGENCIES, OFFICERS AND AGENTS.(Cont'd)**

- (3). — In general.
- (4). — Statutes of limitations.
- (5). Administrative agencies and proceedings.
- (6). Criminal justice.
- (7). Governments and political subdivisions.
- (8). Property.
- (9). — In general.
- (10). — Wills, estates, and trusts.
- (11). — Mortgages and liens.
- (12). Government property, facilities, and funds.
- (13). Social Security, public assistance, and other government payments.
- (14). Taxation.
- (15). Labor, employment, and public officials.
- (16). Education.
- (17). Elections, voting, and political rights.
- (18). War and national emergency.
- (19). Contracts.
- (20). Trade or business.
- (21). Environment and health.
- (22). Mental health.
- (23). — In general.
- (24). — Sex offenders.
- (25). Motor vehicles.
- (26). Carriers and public utilities.
- (27). Families and children.
- (28). Tort or financial liabilities.
- (29). Aliens, immigration, and citizenship.
- (30). Corporations and other private organizations.

(D) HEARINGS AND ADJUDICATIONS.

- 441. In general.
- 442. What constitutes an adjudication.
- 443. Presiding officers.
- 443.1. — In general.
- 444. — Powers.
- 445. Separation of functions of officers.
- 446. Nature and form of proceedings.
- 447. Jurisdiction.

IV. POWERS AND PROCEEDINGS OF ADMINISTRATIVE AGENCIES, OFFICERS AND AGENTS.(Cont'd)

- 447.1. — In general.
- 448. — Anticipated acts.
- 449. Consolidation of proceedings.
- 450. Parties.
- 450.1. — In general.
- 451. — Intervention.
- 452. Notice.
- 452.1. — In general.
- 453. — Necessity.
- 454. — Sufficiency.
- 455. Appearance.
- 456. Pleadings.
- 457. Briefs; oral argument.
- 458. Evidence.
- 458.1. — In general.
- 459. — Matters of record or of common or expert knowledge.
- 460. — Presumptions and burden of proof.
- 461. — Admissibility.
- 462. — Weight and sufficiency.
- 463. Witnesses.
- 463.1. — In general.
- 464. — Subpoenas in general.
- 465. — Subpoenas duces tecum.
- 466. Discovery.
- 467. Dismissal.
- 468. Time for hearing; continuance.
- 469. Hearing.
- 469.1. — In general.
- 470. — Necessity and purpose in general.
- 471. — Place.
- 472. — Elements and essentials in general.
- 473. — Full, open and fair hearing.
- 474. — Attorney, representation by.
- 475. — Proceedings at hearing in general.
- 476. — Production and reception of evidence in general.
- 477. — Formal introduction of evidence.
- 478. — By single member of administrative body.
- 479. — By referee, master, examiner or other subordinate.
- 480. Rehearing.
- 480.1. — In general.
- 481. — Necessity and purpose.
- 482. — Power and discretion to order rehearing.

15A. ADMINISTRATIVE LAW AND PROCEDURE**IV. POWERS AND PROCEEDINGS OF ADMINISTRATIVE AGENCIES, OFFICERS AND AGENTS.(Cont'd)**

- 483. — Time for application or order for rehearing.
- 484. Findings.
- 484.1. — In general.
- 485. — Necessity and purpose.
- 486. — Sufficiency.
- 487. — Modification.
- 488. Conclusions.
- 489. Decision.
- 489.1. — In general.
- 490. — Conformity to pleadings, evidence and findings.
- 491. — Construction.
- 492. — Modification.
- 493. — Vacation.
- 494. — Nunc pro tunc.
- 495. — Relief granted.
- 496. Effect in general.
- 497. Effective date.
- 498. Retroactivity.
- 499. Presumption of validity.
- 500. Collateral attack.
- 501. Res judicata.
- 502. Stare decisis; estoppel to change decision.
- 503. Publication, service or notice of decision.
- 503.1. — In general.
- 504. — Necessity.
- 505. — Sufficiency.
- 506. Record.
- 507. Report or opinion; reasons for decision.
- 508. Declaratory orders.
- 509. Advisory orders.
- 510. Cease and desist orders.
- 511. Objections and exceptions.
- 512. Costs.
- 513. Administrative review.

V. JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS.**(A) IN GENERAL.**

- 651. In general.
- 652. Necessity.
- 653. Purpose.
- 654. Power of legislature.
- 654.1. — In general.

V. JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS.(Cont'd)

- 655. — Statutory conditions.
- 656. — Absence of statutory provision for review.
- 657. Nature and form of remedy.
- 657.1. — In general.
- 658. — Appeal.
- 659. — Certiorari.
- 660. — Special statutory proceeding.
- 661. — Suit to enjoin or set aside.
- 662. Other remedy, availability or prior use of.
- 663. Jurisdiction.
- 664. Venue.
- 665. Right of review.
- 665.1. — In general.
- 666. — Interest in general.
- 667. — Prejudice in general.
- 668. — Persons aggrieved or affected.
- 669. Preservation of questions before administrative agency.
- 669.1. — In general.
- 670. — Evidence.
- 671. — Hearing.
- 672. — Findings.
- 673. Parties.
- 674. Supersedeas or stay.
- 675. Interim relief.
- 676. Record.
- 677. Assignments of error and briefs.
- 678. Dismissal.
- 679. Hearing.
- 680. Rehearing.
- 681. Further review.
- 681.1. — In general.
- 682. — Record.
- 683. — Scope.
- 684. — Determination.
- 685. Costs.
- 685.1. — In general.
- 686. — Attorney fees.

(B) DECISIONS AND ACTS REVIEWABLE.

- 701. In general.
- 702. Amount in controversy.
- 703. Declaratory decisions.
- 704. Finality; ripeness.
- 705. Moot decisions.
- 706. Negative or affirmative nature.

15A. ADMINISTRATIVE LAW AND PROCEDURE**V. JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS.**(Cont'd)**(C) PROCEEDINGS FOR REVIEW.**

- 721. In general.
- 722. Time for proceedings.
- 722.1. — In general.
- 723. — Effect of delay.
- 724. Process or other notice.
- 725. Petition or application.
- 726. Security.

(D) SCOPE OF REVIEW IN GENERAL.

- 741. In general.
- 742. Persons entitled to allege error.
- 743. Amendments; supplementary findings.
- 744. Trial de novo.
- 744.1. — In general.
- 745. — Pleadings.
- 746. — Evidence.
- 747. — Trial in general.
- 748. — Jury trial.
- 749. Presumptions.
- 750. Burden of showing error.
- 751. Limitation of scope of review in general.
- 752. Public interest, convenience or necessity.
- 753. Theory and grounds of administrative decision.
- 754. Discretion of administrative agency.
- 754.1. — In general.
- 755. — Matters which rest in discretion in general.
- 756. — Contracts.
- 757. — Licenses and permits.
- 758. — Sanctions.
- 759. — Technical questions.
- 760. — Wisdom, judgment or opinion.
- 761. — Clear, flagrant or manifest abuse.
- 762. — Refusal or failure to exercise discretion.
- 763. Arbitrary, unreasonable or capricious action; illegality.
- 764. Harmless or prejudicial error.
- 764.1. — In general.
- 765. — Technical error.
- 766. Waiver of error on review.

(E) PARTICULAR QUESTIONS, REVIEW OF.

- 781. In general.
- 782. Collateral and supplementary questions.
- 783. Constitutional questions.

- 784. Fact questions.
- 784.1. — In general.
- 785. — Clear error.
- 786. — Conflicting evidence.
- 787. — Credibility.
- 788. — Determination supported by evidence in general.
- 789. — Inferences or conclusions from evidence in general.
- 790. — Rational basis for conclusions.
- 791. — Substantial evidence.
- 792. — Technical, expert or scientific evidence.
- 793. — Weight of evidence.
- 794. Interlocutory questions.
- 795. Jurisdictional questions.
- 796. Law questions in general.
- 797. Legislative questions; rule-making.
- 798. Moot questions.
- 799. Procedural questions.

(F) DETERMINATION.

- 811. In general; judgment.
- 812. Rendering final or independent decision.
- 813. Affirmance.
- 814. Modification.
- 815. Reversal.
- 816. Annulment, vacation or setting aside of administrative decision.
- 817. Remand.
- 817.1. — In general.
- 818. — Instructions on remand in general.
- 819. — Further or corrected findings, remand for.
- 820. Further administrative proceedings.
- 821. Successive proceedings for review.

VI. JUDICIAL ENFORCEMENT OF ADMINISTRATIVE DECISIONS.

- 901. In general.
- 902. Necessity.
- 903. Discretion.
- 904. Nature and form of remedy.
- 905. Other remedy, availability or prior use of.
- 906. Jurisdiction.
- 907. Venue.
- 908. Decisions enforceable.
- 908.1. — In general.
- 909. — Moot decisions.

15A. ADMINISTRATIVE LAW AND PROCEDURE**VI. JUDICIAL ENFORCEMENT OF ADMINISTRATIVE DECISIONS.**(Cont'd)

- 910. Right to enforcement.
- 911. Defenses.
 - 911.1. — In general.
- 912. — Presentation to administrative body.
- 913. Supersedeas or stay.
- 914. Interim relief.
- 915. Record.
- 916. Proceedings in general.
- 917. Time for proceedings.
- 918. Parties.
- 919. Process or other notice.
- 920. Pleadings.
- 921. Evidence.
- 922. Dismissal.
- 923. Hearing in general.
- 924. Presumptions; burden of showing error.
- 925. Fact questions.
 - 925.1. — In general.
- 926. — Conflicting evidence.
- 927. — Credibility.
- 928. — Decision supported by evidence in general.
- 929. — Inferences or conclusions from evidence.
 - 930. — Substantial evidence.
 - 931. — Weight of evidence.
- 932. Determination.
 - 932.1. — In general.
- 933. — Modification of administrative decision.
- 934. — Modification of enforcement order.
- 935. — Remand.
- 936. — Review.
- 937. Contempt.
- 938. Costs.

16. ADMIRALTY**SUBJECTS INCLUDED**

Administration of the maritime law, general or local, as a distinct system of jurisprudence, by courts of admiralty

Nature, grounds, limits, and subjects of jurisdiction of admiralty in general

Procedure peculiar to suits in admiralty

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Organization and general conduct of business of courts of admiralty see **FEDERAL COURTS**

Particular subjects of admiralty jurisdiction, see **SHIPPING, SEAMEN, PILOTS, TOWAGE, WHARVES, INSURANCE, WATER LAW, COLLISION, MARITIME LIENS, SALVAGE, and CRIMINAL LAW**

- I. JURISDICTION, ¶1-25.
- II. REMEDIES AND PROCEDURE IN GENERAL, ¶26-39.
- III. PARTIES, PROCESS, CLAIMS, AND STIPULATIONS OR OTHER SECURITY, ¶40-58.
- IV. PLEADING, ¶59-71.
- V. MOTIONS, ¶72.
- VI. EVIDENCE, AND TAKING AND FILING PROOFS, ¶73-77.
- VII. PRELIMINARY PROCEEDINGS, ¶78.
- VIII. HEARING OR TRIAL, ¶79-81.
- IX. REHEARING OR NEW TRIAL, ¶82.
- X. COMMISSIONERS AND PROCEEDINGS BEFORE THEM, ¶83-87.
- XI. DECREE AND ENFORCEMENT THEREOF, ¶88-101.
- XII. APPEAL, ¶102-120.
- XIII. COSTS, ¶121-127.

I. JURISDICTION.

- 1. Nature, grounds, and scope in general.
 - (.5). In general.
 - (1). Jurisdiction in general.
 - (2). Equitable jurisdiction; injunctions.
 - (3). Ancillary and incidental jurisdiction and jurisdiction of entire controversy.
- 1.5. Nature and source of maritime law.
- 1.6. Effect of United States Constitution; powers of Congress.
- 1.10. What law governs.
- 1.11. — In general.

16. ADMIRALTY**I. JURISDICTION.(Cont'd)**

- 1.15. — Torts.
- 1.20. — Effect of state laws.
 - (1). In general.
 - (2). Contracts in general; insurance.
 - (3). Licenses and taxes.
 - (4). Remedies and procedure.
 - (5). Torts in general; workers' compensation.
 - (6). Wrongful death.
- 2. Saving of common-law remedy.
- 4. Waters, places, and voyages.
- 5. Persons.
 - (1). In general.
 - (2). Forum non conveniens in general.
 - (3). Suits between foreigners in general.
 - (4). Foreign seamen, suits respecting.
 - (4.1). — In general.
 - (5). — Wage controversies.
 - (6). — Injuries, maintenance, and cure.
 - (7). Stipulation to sue in foreign court.
- 6. Vessels and other property.
- 7. Rights and controversies in general.
- 8. Ownership and possession of vessels.
- 9. Contracts.
 - 9.1. — In general.
- 10. — Maritime contracts in general.
 - (.5). In general.
 - (1). Jurisdiction in general.
 - (2). Nature of contract in general.
 - (3). Indemnity.
 - (4). Insurance and contracts to procure.
 - (5). Partially maritime contracts.
- 11. — Shipbuilding contracts.
- 12. — Hire or employment of vessel and contracts of carriage and storage.
- 13. — Services.
- 14. — Repairs and supplies.
- 15. — Mortgages, bottomry, and hypothecation.
- 16. Liens.
- 17. Torts.
 - 17.1. — In general.
- 18. — Maritime torts in general.
- 19. — Injuries to vessels or other property.
- 20. — Personal injuries.

I. JURISDICTION.(Cont'd)

- 21. — Causing death.
- 22. — Torts partly committed or causing damage on land or nonnavigable waters.
- 23. Penalties, forfeitures, and seizures.
- 24. Captures and prizes.
- 25. Making and waiver of objections to jurisdiction.

**II. REMEDIES AND PROCEDURE
IN GENERAL.**

- 26. Mode and forms of procedure in general.
- 27. Grounds of proceeding in personam.
- 28. Grounds of proceeding in rem.
- 29. Proceeding in personam and in rem for same cause.
- 30. Joinder of causes and proceedings.
- 31. Defenses in general.
- 32. Place of bringing suit.
 - 32.1. — In general.
 - 32.2. — Residence or place of business.
 - 32.3. — Corporations, suits against.
 - 32.4. — United States, suits against.
 - 32.5. — Waiver of defects or objections.
 - 32.10. — Change of venue.
 - (1). In general.
 - (2). Grounds for change in general.
 - (3). Venue laid in wrong district.
 - (4). Convenience of parties and witnesses; interest of justice.
 - (5). Application and proceedings thereon.
 - (6). District to which change may be made.
 - (7). Conditions on granting or refusing change.
- 33. Premature commencement of suit.
- 34. Limitations, laches and stale demands.
 - 34.1. — In general.
 - 34.2. — Prejudice, and excuse for delay.
 - 34.3. — As against subsequent purchasers or encumbrancers.
 - 34.4. — Following state statutes of limitation.
 - 34.5. — Computation of limitation period.
 - 34.6. — Suits by or against United States.
 - (.5). In general.
 - (1). Suits by United States.
 - (2). Suits against United States.

16. ADMIRALTY**II. REMEDIES AND PROCEDURE
IN GENERAL.(Cont'd)**

- (2.1). — In general.
- (3). — Charter cases.
- (4). — Insurance cases.
- (5). — Personal injury, maintenance and cure, and death cases.
- (6). — Dismissal of prior suit improperly brought.
- 34.7. — Pleading and waiver.
- 35. Pendency of other proceeding.
- 36. Set-off, counterclaim, and cross-suit.
- 37. Consolidation and severance.
- 38. Stay of proceedings.
- 39. Abandonment, discontinuance, or dismissal.

**III. PARTIES, PROCESS, CLAIMS,
AND STIPULATIONS OR
OTHER SECURITY.**

- 40. Capacity to sue or be sued in admiralty.
- 41. Libelants.
- 42. Defendants.
- 43. Property subject to process.
- 44. Process and appearance in general.
Suits against the United States, see UNITED STATES
§519.
- 46. Process against the person.
- 47. Attachment and garnishment.
- 48. Process in proceedings in rem.
 - (1). In general.
 - (2). Arrest.
- 50. Intervention and bringing in new parties.
- 51. Death of party.
- 52. Tender and payment into court.
- 53. Custody and disposition of property pending suit.
- 54. Bonds and stipulations in general.
- 55. Bail.
- 56. Security for dissolution of attachment.
- 57. Security for release of vessel or other property.
- 58. Security on cross-libel.

IV. PLEADING.

- 59. Allegations in general.
- 60. Libel.
- 61. Answer.
- 62. Cross-libel.

IV. PLEADING.(Cont'd)

- 63. Reply.
- 65. Exceptions, demurrers, and special pleas in bar.
- 66. Amended and supplemental pleadings.
- 67. Signature and verification.
- 68. Exhibits.
- 69. Filing and service.
- 70. Issues, proof, and variance.
- 71. Defects and objections.

V. MOTIONS.

- 72. In general.

**VI. EVIDENCE, AND TAKING
AND FILING PROOFS.**

- 73. Rules of evidence and mode of proof in general.
- 74. Pleadings as evidence.
- 75. Discovery.
 - 75.1. — In general.
 - 75.2. — Interrogatories and answers there-
to.
 - (1). In general.
 - (2). Scope of interrogatories.
 - (2.1). — In general.
 - (3). — Relevancy and materiality.
 - (4). — Identity and location of witnesses and others.
 - (5). Answers in general.
 - (6). Production of documents.
 - (7). Effect of answers.
 - (8). Failure to answer.
 - 75.3. — Depositions on oral examination.
 - 75.4. — Production of documents and other tangible things.
 - (1). In general.
 - (2). Subject matter.
 - 75.5. — Physical and mental examination.
 - 75.6. — Requests for admission.
- 76. Depositions.
- 77. Testimony before commissioners.

VII. PRELIMINARY PROCEEDINGS.

- 78. In general.

VIII. HEARING OR TRIAL.

- 79. In general.

17. ADOPTION**VIII. HEARING OR TRIAL.**(Cont'd)

- 80. Trial by jury.
- 81. Decision.

IX. REHEARING OR NEW TRIAL.

- 82. In general.

X. COMMISSIONERS AND PROCEEDINGS BEFORE THEM.

- 83. Reference to commissioners.
- 84. Proceedings before commissioners.
- 85. Report.
- 86. Objections and exceptions to rulings and reports.
- 87. Confirmation or recommittal of report.

XI. DECREE AND ENFORCEMENT THEREOF.

- 88. Rendition, form, and requisites in general.
- 89. Decrees by default or pro confesso.
- 89.1. — In general.
- 90. — Requisites and validity.
- 91. — Opening or setting aside.
- 92. Judgments on bonds or stipulations.
- 93. Amendment, opening, or vacating.
- 94. Libel or bill for review.
- 95. Operation and effect of decree.
- 96. Execution in general.
- 97. Enforcement against property in court.
- 98. Enforcement against sureties or stipulators.
- 99. Sale or other disposition of property.
- 100. Rights and liabilities of purchasers.
- 101. Disposition of proceeds or remnants.

XII. APPEAL.

- 102. Appellate jurisdiction.
- 103. Decisions reviewable.
- 104. Right of review.
- 105. Presentation and reservation in lower court of grounds of review.
- 106. Parties.
- 107. Taking and perfecting appeal.
- 107.1. — In general.
- 108. — Time of taking proceedings.
- 109. — Assignment of errors.
- 110. — Petition or other proceedings for appeal.
- 111. — Appeal bonds.

XII. APPEAL.(Cont'd)

- 112. — Citation, notice, and appearance.
- 113. Effect of appeal.
- 114. Stay of execution.
- 115. Record.
- 116. Hearing and rehearing.
- 117. Amendments, new pleadings and proofs, and trial of cause anew.
- 118. Review.
- 118.1. — In general.
- 118.2. — Interlocutory, collateral, and supplementary proceedings and questions.
- 118.3. — Parties entitled to allege error.
- 118.4. — Presumptions.
- 118.5. — Discretion of lower court.
- 118.6. — Questions of fact in general.
 - (1). In general.
 - (2). Verdicts and findings.
- 118.7. — Findings of court.
 - (1). In general.
 - (2). Sufficiency of evidence in support.
 - (3). Conflicting evidence.
 - (4). Against weight of evidence.
 - (5). Clearly erroneous findings.
- 118.8. — Findings of commissioner.
- 118.9. — Harmless error.
- 118.10. — Decisions of intermediate courts and subsequent appeals.
- 119. Determination and disposition of cause.
- 120. Liabilities on appeal bonds.

XIII. COSTS.

- 121. Power to award in general.
- 122. Parties to and against whom awarded.
- 123. Security for payment.
- 124. Amount and items.
- 125. Taxation.
- 126. Costs on appeal.
- 127. Payment and remedies for collection.

17. ADOPTION**SUBJECTS INCLUDED**

Taking child of another as one's own child

17. ADOPTION

Proceedings therefor

Rights, duties, and liabilities arising from adoption

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Issues peculiar to adoption of Indian children, see **INDIANS** ⇨ 138

Legitimation of nonmarital children, see **PARENT AND CHILD I-III**

1. Nature of the proceeding.
2. Constitutionality of statutes.
3. Statutory provisions.
4. Persons who may adopt others.
5. Persons who may be adopted.
- 5.5. Adoption agencies and facilitators.
6. Adoption agreements; brokering, fees and effect.
7. Consent of parties.
 - 7.1. — In general; who may or must consent.
 - 7.2. — Natural parents, necessity of consent in general.
 - (1). In general.
 - (2). Effect of divorce.
 - (3). Illegitimate children.
 - 7.3. — Exceptions; relinquishment or forfeiture of parent's rights in general.
 - 7.4. — Abandonment, desertion, neglect, or nonsupport forfeiting parent's rights.
 - (1). In general.
 - (2). Nature and elements of abandonment.
 - (2.1). — In general.
 - (3). — Intent, willfulness, and malice.
 - (4). Parent deprived of custody; interference.
 - (5). Renewal of interest.
 - (6). Nonsupport.
 - 7.5. — Requisites and validity of consent.
 - 7.6. — Withdrawal or revocation of consent; binding effect.
 - (1). In general.
 - (2). Grounds for revocation; discretion.
 - (3). Time for revocation.

7.7. — Effect of failure to obtain consent; jurisdictional requirement.

7.8. — Evidence.

(.5). In general.

(1). Presumptions and burden of proof.

(2). Admissibility.

(3). Weight and sufficiency.

(3.1). — In general.

(4). — Necessity of consent in general.

(5). — Abandonment.

8. Deed or declaration.

9. Judicial proceedings.

9.1. — In general.

10. — Jurisdiction.

11. — Petition and parties.

12. — Notice.

13. — Examination and approval by court.

14. — Order or decree.

15. — Review.

16. Setting aside or revoking adoption.

17. Evidence of adoption.

18. Status of adopted person in general.

20. Rights, duties, and liabilities created in general.

Effect of adoption on child custody and visitation rights of parents, grandparents and others, see CHILD CUSTODY. Effect of adoption on support obligations, see CHILD SUPPORT.

21. Inheritance by adopted children.

22. Inheritance from adopted children.

23. Inheritance through adopted children.

24. Effect of adoption on property rights of surviving husband or wife.

25. Foreign adoption.

26. Public stipends and subsidies; adoption assistance benefits.

18. ADULTERATION**SUBJECTS INCLUDED**

Corruption or dilution of articles of commerce by admixture of foreign substances, and factitious imitation or simulation of such articles in general

20. ADVERSE POSSESSION

Nature and extent of criminal responsibility therefor, and grounds of defense

Prosecution and punishment of such acts as public offenses

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Civil liabilities on sales of adulterated goods, see SALES

Inspection for prevention of fraud, see INSPECTION

Regulations, for protection of public health, of manufacture, sale, and use of articles of

Food and drink, see FOOD

Medicines, see HEALTH

1. Power to make regulations.
2. Constitutionality of regulations.
3. Statutory provisions.
4. Nature and elements of offenses.
5. Defenses.
6. Persons liable.
7. Penalties and forfeitures and actions therefor.
8. Jurisdiction of criminal prosecutions.
9. Indictment or information.
- 9.1. — In general.
10. — Requisites and sufficiency.
11. — Issues, proof, and variance.
12. Evidence.
13. Trial and review.

20. ADVERSE POSSESSION**SUBJECTS INCLUDED**

Possession of property so inconsistent with the possession or title of another as to constitute an element of title or evidence of title in the possessor

Nature, requisites, incidents, operation and effect of such possession

Evidence relating thereto

Acquisition of title thereby

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Cotenants, effect of adverse possession as between, see JOINT TENANCY, TENANCY IN COMMON

Indian lands, see INDIANS ¶201

Limitations of remedies in general, see LIMITATION OF ACTIONS

Particular classes of persons, effect of adverse possession on rights of, see INFANTS, MENTAL HEALTH, and other specific topics

Particular estates or interests, effect of adverse possession on, see LIFE ESTATES, REMAINDERS, LANDLORD AND TENANT, EASEMENTS, MINES AND MINERALS, WATER LAW, and other specific topics

Particular remedies, effect of adverse possession to sustain or defeat, see EJECTMENT, TRESPASS, and other specific topics

Validity of conveyances of land held adversely, and of agreements to share property to be recovered by suit, see CHAMPERTY AND MAINTENANCE

I. NATURE AND REQUISITES, ¶1-95.

(A) ACQUISITION OF RIGHTS BY PRESCRIPTION IN GENERAL, ¶1-13.

(B) ACTUAL POSSESSION, ¶14-27.

(C) VISIBLE AND NOTORIOUS POSSESSION, ¶28-33.

(D) DISTINCT AND EXCLUSIVE POSSESSION, ¶34-38.

(E) DURATION AND CONTINUITY OF POSSESSION, ¶39-57.

(F) HOSTILE CHARACTER OF POSSESSION, ¶58-85.

(G) PAYMENT OF TAXES, ¶86-95.

II. OPERATION AND EFFECT, ¶96-109.

(A) EXTENT OF POSSESSION, ¶96-103.

(B) TITLE OR RIGHT ACQUIRED, ¶104-109.

III. PLEADING, ¶110-111.**IV. EVIDENCE, ¶112-114.****V. TRIAL, ¶115-117.****I. NATURE AND REQUISITES.****(A) ACQUISITION OF RIGHTS BY PRESCRIPTION IN GENERAL.**

1. Nature and grounds of prescription.

20. ADVERSE POSSESSION**I. NATURE AND REQUISITES. (Cont'd)**

2. What law governs.
3. Constitutional and statutory provisions in general.
4. Against whom prescription may be claimed.
5. Property subject to prescription.
 - 5.1. — In general.
6. — Rights and interests of private individuals.
7. — Public property in general.
 - (1). In general.
 - (2). Public lands in general.
 - (3). Public lands granted to individuals.
8. — Property dedicated to or acquired for public use.
 - (1). In general.
 - (2). Highways and turnpikes.
 - (3). School lands.
 - (4). Railroad property.
9. — Property held by municipalities for other than public use.
10. Persons entitled to claim by prescription.
11. Intent to acquire title or right.
13. Character and elements of adverse possession in general.

(B) ACTUAL POSSESSION.

14. Necessity.
15. Entry on land.
16. Acts of ownership in general.
 - (1). In general.
 - (2). Marking boundaries and entry to make survey.
 - (3). Wild lands.
17. Use and occupation.
18. Residence.
19. Inclosure.
20. Improvements.
21. Cultivation.
22. Pasturage.
23. Cutting timber.
24. Occasional or temporary use or occupation.
25. Possession of agent, tenant, or vendee.
26. Lawful possession.
27. Evidence.

(C) VISIBLE AND NOTORIOUS POSSESSION.

28. Necessity.
29. Open and visible character of possession.
30. Notoriety of possession.
31. Knowledge of or notice to former owner.
32. Filing or recording notice.
33. Evidence.

(D) DISTINCT AND EXCLUSIVE POSSESSION.

34. Necessity.
35. Possession distinct from that of others.
36. Possession exclusive of others.
37. Possession exclusive of former owner.
38. Evidence.

(E) DURATION AND CONTINUITY OF POSSESSION.

39. Time requisite for acquisition of rights.
40. — In general.
41. — Under claim or color of title.
42. Beginning of adverse possession.
43. Tacking successive possessions.
 - (1). In general.
 - (2). When possessions may be tacked in general.
 - (3). Privity of estate in general.
 - (4). Vendor and purchaser.
 - (5). Landlord and tenant.
 - (6). Decedent and heirs and representatives.
 - (7). Same claimant.
 - (8). Character of former possessions.
44. Continuity in general.
45. Suspension of statute of limitations.
46. Interruption of possession.
 - 46.1. — In general.
47. — By former owner, payment of taxes.
48. — By third persons.
49. — By public.
50. Recognition of title of former owner.
51. Adjudication as to title or right.
52. Purchase of outstanding title or claim.
53. Abandonment.
54. Completion of period.
55. Disability or death of former owner.
56. Extension of period.
57. Evidence.

(F) HOSTILE CHARACTER OF POSSESSION.

58. Necessity.

20. ADVERSE POSSESSION**I. NATURE AND REQUISITES.(Cont'd)**

59. Possession consistent with that of another, and possession becoming adverse after amicable entry.
60. — In general.
 - (1). In general.
 - (2). Permissive entry and occupation, and license.
 - (3). Recognition of better or other title or claim.
 - (4). Possession becoming adverse.
 - (5). Of street or highway.
 - (6). Of railroad right of way.
61. — By persons in fiduciary relations.
62. — By or against heirs, devisees, or surviving husband or wife, or their grantees.
 - (.5). In general.
 - (1). By heirs, legatees, and their privies against coheirs, colegatees, and their privies.
 - (2). By heirs or devisees against ancestor's widow, administrator, or creditors.
 - (3). By surviving spouse and privies against heirs, and their privies.
63. — By vendor or purchaser.
 - (1). In general.
 - (2). By vendor or grantor in general.
 - (3). By grantor in deed fraudulent as to creditors.
 - (4). Possession of grantor becoming adverse to grantee.
 - (5). By purchaser and his privies in general.
 - (6). By grantee against condition, reservation, or exception in deed.
 - (7). Possession of purchaser becoming adverse to vendor.
64. — By donor or donee, or bailor or bailee.
65. Entry and possession by mistake.
 - (.5). In general.
 - (1). Mistake as to location.
 - (2). Mistake as to estate held.
 - (3). Mistake in conveyance or survey.
66. Extension of possession to boundaries or fences.
 - (1). In general.
 - (2). Mistake as to boundaries.

I. NATURE AND REQUISITES.(Cont'd)

67. Adverse entry.
68. Necessity of claim or color of title.
69. Validity and sufficiency of title or claim.
70. — In general.
71. — Validity and sufficiency of instruments in general.
 - (1). In general.
 - (2). Void, irregular, or defective deeds or grants.
 - (3). Conveyance by one without title or right of possession.
72. — Bonds and contracts to convey.
73. — Patents, grants, certificates, surveys, and plats.
74. — Judgments and execution and judicial sales.
75. — Partition.
76. — Mortgages and mortgage foreclosures.
77. — Administrators' and guardians' sales and deeds.
78. — Descent and devise.
79. — Tax sales and tax deeds.
 - (1). In general.
 - (2). Deed from purchaser at tax sale.
 - (3). Assessment leases.
 - (4). Tax deeds.
80. — Description of property.
 - (1). In general.
 - (2). Sufficiency of description.
 - (3). Mistake in description.
81. — Persons executing instruments.
82. — Record of instruments.
83. Possession under conflicting titles.
84. Good faith and diligence.
85. Evidence.
 - (.5). In general.
 - (1). Presumptions and burden of proof.
 - (2). Admissibility.
 - (3). Weight and sufficiency in general.
 - (4). Possession consistent with that of another, and possession becoming adverse after amicable entry.
 - (5). Validity and sufficiency of title or claim.

20. ADVERSE POSSESSION

(G) PAYMENT OF TAXES.

86. Necessity in general.
87. Statutory provisions.
88. Act of ownership.
89. Condition of acquiring title or right.
90. Property assessed.
91. Color of title.
92. Persons making payment.
93. Duration and continuity of payment.
94. Sufficiency of payment.
95. Evidence.

II. OPERATION AND EFFECT.

(A) EXTENT OF POSSESSION.

96. Property in actual possession.
97. Possession without claim of right or color of title.
98. Possession under claim of right without color of title.
99. Possession under color of title.
- 99.1. — In general.
100. — Constructive possession in general.
 - (1). In general.
 - (2). Registration of conveyance.
 - (3). Intention of occupant.
 - (4). Sufficiency of description and extending possession beyond bounds laid down in instrument of title.
 - (5). Entry under conveyance from one without title, or under void deed.
 - (6). Possession under particular instruments or titles.
101. — Relation to each other of different premises or parts of same premises.
102. — Sale or lease of part of property or subdivision thereof.
103. — Mixed possession under hostile titles, or conflicting grants or surveys.

(B) TITLE OR RIGHT ACQUIRED.

104. Presumption of grant.
105. Rights and liabilities of occupants.
106. Nature and extent of title or right.
 - (1). In general.
 - (2). Limitation as bar to action for recovery.

II. OPERATION AND EFFECT.(Cont'd)

- (3). Extinction of title in original holder.
- (4). Vesting of title in adverse occupant.
- (5). Aggressive character of title acquired.
107. Amount of land.
108. Establishment of boundaries.
109. Abandonment or forfeiture of title after acquisition.

III. PLEADING.

110. Pleading possession.
 - (1). In general.
 - (2). Sufficiency of plea in general.
 - (3). Exclusiveness, duration, and continuity of possession.
 - (4). Issues, proof, and variance.
111. Pleading title or right.

IV. EVIDENCE.

112. Presumptions and burden of proof.
113. Admissibility of evidence.
114. Weight and sufficiency of evidence.
 - (1). In general.
 - (2). Boundaries and extent of possession.
 - (3). Effect of color of title.

V. TRIAL.

115. Questions for jury.
 - (1). In general.
 - (2). Actual possession.
 - (3). Open and exclusive possession.
 - (4). Duration and continuity of possession.
 - (5). Hostile character of possession.
 - (6). Color of title and good faith.
 - (7). Extent of possession.
116. Instructions.
 - (1). In general.
 - (2). Actual possession.
 - (3). Visible and notorious and distinct and exclusive possession.
 - (4). Duration and continuity of possession.
 - (5). Hostile character of possession.
 - (6). Payment of taxes.

23. AGRICULTURE

V. TRIAL. (Cont'd)

- (7). Extent of possession.
- (8). Instructions as to presumptions and burden of proof and sufficiency of evidence.
117. Verdict and findings.

21. AFFIDAVITS

SUBJECTS INCLUDED

Formal declarations or statements in writing and under oath, as to matters of fact, whether made voluntarily or not, taken ex parte for use in legal proceedings

Making, taking and requisites of such affidavits

Amendment of defects

Use in evidence in general

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Claim, merits, or defense, affidavits of, see PLEADING

Depositions taken on interrogatories subject to cross-examination, see PRETRIAL PROCEDURE

Evidence, competency of in general, see EVIDENCE

On motion for summary judgment, see JUDGMENT for state cases and FEDERAL CIVIL PROCEDURE for federal cases, generally

Particular proceedings in actions or other legal proceedings, affidavits for purposes incident to, see ARREST, CREDITORS' REMEDIES, HABEAS CORPUS, and other specific topics

Witnesses, competency of, see WITNESSES

1. Nature and functions in general.
2. Persons who may make.
3. Knowledge or information of affiant.
4. Compelling making of affidavit.
5. Authority to take.
6. Mode of taking.
7. Entitling.

8. Venue.
9. Form and contents.
10. Date.
11. Signature and oath.
12. Jurat or certificate of officer.
13. Affidavit taken in other state or foreign country.
- 13.1. — In general.
14. — Authority of officer and mode of taking.
15. — Authentication.
16. Amendment.
17. Sufficiency and effect of averments.
18. Use in evidence.
19. Recording.

23. AGRICULTURE

SUBJECTS INCLUDED

Promotion and regulation of agricultural pursuits in general

Public aid and protection to those engaged therein

Agricultural societies

Agricultural liens

Other incidental rights and remedies

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Bounties, see BOUNTIES

Crops, ownership of, see CROPS

Drainage of lands, see WATER LAW

Employers and employees, matters affecting the relation between, see LABOR AND EMPLOYMENT

Environmental law, see ENVIRONMENTAL LAW

Food stamps, child nutrition, and other public aid, see PUBLIC ASSISTANCE

Irrigation of lands, see WATER LAW

Land banks and farm credit, see FINANCE, BANKING, AND CREDIT VII

Leases of agricultural lands and liens for rent, see LANDLORD AND TENANT

23. AGRICULTURE

Levees, see **WATER LAW**

Rural aid and development, see **UNITED STATES I(I)**

Transportation, storage and inspection of agricultural products, regulation of, see **COMMERCE, CARRIERS, WAREHOUSEMEN, INSPECTION**

1. Constitutional and statutory provisions.
2. Agricultural boards and officers.
3. Public aid.
 - 3.1. — In general.
 - 3.2. — Soil conservation incentives and payments.
 - 3.3. — Marketing and production control in general; quotas and allotments.
 - (1). In general.
 - (2). Transfer of allotments.
 - (3). Administrative officers and committees.
 - (4). Judicial review of administrative action.
 - (5). Penalties.
 - 3.4. — Particular crops, control.
 - (1). In general.
 - (2). Cotton.
 - (3). Tobacco.
 - (4). Wheat and corn; feed grain.
 - 3.5. — Credit, loans, and price supports.

Land banks and farm credit, see FINANCE, BANKING, AND CREDIT VII.

 - (1). In general.
 - (2). Milk and dairy products.
 - 3.6. — State and local aid.
 - 3.7. — Commodity Credit Corporation.
4. Agricultural societies.
 - (1). In general.
 - (2). Nature and powers.
 - (3). Liabilities.
5. Agricultural exhibitions and fairs.
6. Co-operative corporations or associations.
7. Fertilizers.
8. Weeds and other noxious plants.
9. Destructive insects, birds, and other animals, and diseases of plants.
- 9.2. Pesticides and herbicides.

Environmental regulation, see ENVIRONMENTAL LAW; Products liability, see PRODUCTS LIABILITY.
- 9.3. — In general.
- 9.4. — Aerial application; crop dusting.
- 9.5. — Tort liability.

9.6. — Offenses and penalties.

10. Agricultural liens.

10.1. — In general.

11. — Right to lien.

12. — Proceedings to perfect.

13. — Operation and effect.

14. — Waiver, discharge, release, and satisfaction.

15. — Enforcement.

16. Illegal traffic in agricultural products.

24. ALIENS, IMMIGRATION, AND CITIZENSHIP**SUBJECTS INCLUDED**

Persons of foreign allegiance; their rights and disabilities in general

Exclusion or denial of admission and deportation or removal from the country

Regulation and restriction of immigration

Detention and supervision

Asylum and refugees

Nature and incidents of citizenship

Rights, privileges, and immunities of citizens in general, as distinguished from mere residents or aliens

Expatriation

Naturalization and admission to citizenship

Denaturalization

Alien tort claims

Crimes and offenses specifically concerning aliens or immigration

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Admission to citizenship of specific classes of persons, see **INDIANS, SLAVES**

Alien enemies, see **WAR AND NATIONAL EMERGENCY**

Courts, citizenship affecting jurisdiction, see **COURTS, FEDERAL COURTS**

Domicile, application of law of, see titles of particular subjects involved

Escheat proceedings, see **ESCHEAT**

24. ALIENS, IMMIGRATION, AND CITIZENSHIP

Federal courts, jurisdiction and venue, see
FEDERAL COURTS

Particular kinds of property or particular remedies, rights and liabilities in respect of, see
MINES AND MINERALS, SHIPPING, PATENTS, COPYRIGHTS AND INTELLECTUAL PROPERTY, TRADEMARKS and other specific topics

Particular civil or political rights, see CIVIL RIGHTS, CONSTITUTIONAL LAW, ELECTION LAW

Privileges and immunities of citizens of each state in other states, see CONSTITUTIONAL LAW XXIV

Workers' compensation acts, rights under, see
WORKERS' COMPENSATION

Wrongful death, right of action for, see
DEATH

- I. ALIENS IN GENERAL, ¶100-109.
- II. STATUS, RIGHTS, PRIVILEGES, DUTIES, AND DISABILITIES, ¶110-139.
- III. IMMIGRATION AGENCIES AND OFFICERS, ¶140-159.
- IV. ADMISSION AND VISAS IN GENERAL, ¶160-209.
 - (A) IN GENERAL, ¶160-169.
 - (B) VISAS IN GENERAL, ¶170-173.
 - (C) IMMIGRANT VISAS, ¶174-189.
 - (D) NON-IMMIGRANT VISAS, ¶190-199.
 - (E) REVOCATION OR EXPIRATION OF VISAS, ¶200-204.
 - (F) VISA PROCEEDINGS, ¶205-209.
- V. DENIAL OF ADMISSION AND REMOVAL, ¶210-434.
 - (A) IN GENERAL, ¶210-223.
 - (B) GROUNDS FOR DENIAL OF ADMISSION OR EXCLUSION, ¶224-248.
 - (C) REMOVAL OR DEPORTATION; GROUNDS, ¶249-298.
 - (D) RELIEF FROM DENIAL OF ADMISSION OR REMOVAL IN GENERAL, ¶299-328.
 - (E) ADMINISTRATIVE PROCEDURE, ¶329-368.
 - (F) ORDER AND WARRANT; ENFORCEMENT, ¶369-383.
 - (G) JUDICIAL REVIEW OR INTERVENTION, ¶384-419.

V. DENIAL OF ADMISSION AND REMOVAL—Cont'd

(H) EVIDENCE IN ADMINISTRATIVE OR JUDICIAL PROCEEDINGS, ¶420-434.

VI. ARREST, DETENTION, SUPERVISION, AND PAROLE, ¶435-489.

(A) IN GENERAL, ¶435-439.

(B) BORDER STOPS AND INSPECTIONS, ¶440-449.

(C) ARREST, ¶450-459.

(D) DETENTION, SUPERVISION, AND PAROLE, ¶460-484.

(E) JUDICIAL REVIEW OR INTERVENTION, ¶485-489.

VII. ASYLUM, REFUGEES, AND WITHHOLDING OF REMOVAL, ¶490-649.

(A) IN GENERAL, ¶490-499.

(B) ASYLUM DISTINGUISHED FROM WITHHOLDING OF REMOVAL OR DEPORTATION, ¶500-503.

(C) ELIGIBILITY; REFUGEE STATUS, ¶504-519.

(D) PERSECUTION, ¶520-549.

(E) RELIEF UNDER TREATIES AGAINST TORTURE, ¶550-559.

(F) ADMINISTRATIVE PROCEDURE, ¶560-598.

(G) JUDICIAL REVIEW OR INTERVENTION, ¶599-634.

(H) EVIDENCE IN ADMINISTRATIVE OR JUDICIAL PROCEEDINGS, ¶635-649.

VIII. CITIZENSHIP AND NATURALIZATION, ¶650-759.

(A) CITIZENSHIP, ¶650-688.

(B) NATURALIZATION, ¶689-759.

IX. ALIEN TORT CLAIMS, ¶760-768.

X. OFFENSES, PENALTIES AND PROSECUTIONS, ¶769-799.

I. ALIENS IN GENERAL.

- 100. In general.
- 101. Power to regulate in general.
- 102. Constitutional and statutory provisions.
- 103. Preemption.
- 104. Who are aliens.
- 105. Evidence of alienage.
- 106. — In general.
- 107. — Presumptions and burden of proof.
- 108. — Admissibility.
- 109. — Weight and sufficiency.

24. ALIENS, IMMIGRATION, AND CITIZENSHIP**II. STATUS, RIGHTS, PRIVILEGES, DUTIES, AND DISABILITIES.**

- 110. In general.
- 111. Constitutional and statutory provisions.
- 112. — In general.
- 113. — Purpose.
- 114. — Validity.
- 115. — Retroactive operation.
- 116. Status and classification of aliens in general.
- 117. Subject to law; duties in general.
- 118. Registration.
- 119. Rights of aliens in general.
- 120. — In general.
- 121. — Undocumented aliens.
- 122. Employment.
- 123. — In general.
- 124. — Eligibility verification; document abuse.
- 125. Engaging in business or profession.
- 126. Education.
- 127. Contracts.
- 128. Property.
- 129. — In general.
- 130. — Personal property.
 - (1). In general.
 - (2). Inheritance or testamentary disposition.
 - (3). Effect of treaties and reciprocal rights.
- 131. — Real property.
 - (1). In general.
 - (2). Who may question capacity.
 - (3). Purchase or sale.
 - (4). Lease.
 - (5). Mortgage or lien.
 - (6). Trusts.
 - (7). Dower or curtesy.
 - (8). Inheritance or testamentary disposition.
 - (9). Grants from state.
 - (10). Escheat.
 - (11). Effect of treaties and reciprocal rights.
- 132. Right to actions by or against aliens.
- 133. — In general.
- 134. — Jurisdiction.
- 135. — Effect of treaties and reciprocal rights.

II. STATUS, RIGHTS, PRIVILEGES, DUTIES, AND DISABILITIES.(Cont'd)

- 136. Criminal prosecutions.
- 137. Costs of undocumented aliens; reimbursement to states.

III. IMMIGRATION AGENCIES AND OFFICERS.

- 140. In general.
- 141. Constitutional and statutory provisions.
- 142. Powers and duties in general.
- 143. Proceedings in general.
- 144. Officers and agents.
- 145. — In general.
- 146. — Appointment and qualification.
- 147. — Powers and duties.
- 148. — Compensation and expenses.
- 149. — Liabilities; immunity.
 - Liability for constitutional violations, see UNITED STATES V(D)2*
- 150. — Discipline and removal.
- 151. — Proceedings.
- 152. Rules and regulations.
- 153. — In general.
- 154. — Validity.
- 155. — Proceedings for adoption and review.

IV. ADMISSION AND VISAS IN GENERAL.**(A) IN GENERAL.**

- 160. In general.
- 161. Constitutional and statutory provisions.
- 162. Admission as privilege or right.
- 163. Conditions in general.
- 164. Limitations on numbers in general.

(B) VISAS IN GENERAL.

- 170. In general.
- 171. Necessity.
- 172. Waiver.

(C) IMMIGRANT VISAS.

- 174. In general.
- 175. Allocation and preferences.
- 176. — In general.
- 177. — Family sponsored preferences.
- 178. — Employment related preferences.
 - (1). In general.
 - (2). Agricultural workers.
 - (3). Aliens with extraordinary abilities.

24. ALIENS, IMMIGRATION, AND CITIZENSHIP**IV. ADMISSION AND VISAS
IN GENERAL..(Cont'd)**

- (4). Professionals and aliens with advanced degrees.
- (5). Labor certification.
- (6). Investors; employment creation.
- 179. — Special immigrants.
- 180. — Diversity.
- 181. Non-quota immigrants.
- 182. — In general.
- 183. — Immediate relatives.
- 184. — Permanent residents returning from temporary visit abroad.

(D) NON-IMMIGRANT VISAS.

- 190. In general.
- 191. Treaty traders and investors.
- 192. Visitors.
- 193. Students.
- 194. Temporary workers.

(E) REVOCATION OR EXPIRATION OF VISAS.

- 200. In general.
- 201. Grounds for revocation.

(F) VISA PROCEEDINGS.

- 205. In general.
- 206. Evidence and fact questions.
- 207. Judicial review and intervention.

V. DENIAL OF ADMISSION AND REMOVAL.**(A) IN GENERAL.**

- 210. In general.
- 211. Power to deny admission or remove in general.
- 212. Constitutional and statutory provisions.
- 213. — In general.
- 214. — Purpose.
- 215. — Validity.
- 216. — Retroactive operation.
- 217. Preemption.
- 218. Distinction between denial of admission or exclusion and removal or deportation.
- 219. — In general.
- 220. — Mode and effect of entry or reentry.

**(B) GROUNDS FOR DENIAL OF ADMISSION
OR EXCLUSION.**

- 224. In general.
- 225. Health-related grounds.
- 226. Ineligibility for citizenship.
- 227. Draft evasion.
- 228. Liable to become public charge.
- 229. Employment or work-related grounds.
- 230. Seamen and similar transients.
- 231. Crime and related grounds.
- 232. — In general.
- 233. — Crimes of moral turpitude.
- 234. — Controlled substances offenses.
- 235. — Prostitution and immoral purposes.
- 236. Immigration violations.
- 237. — In general.
- 238. — Marriage fraud.
- 239. — Previous removal and unlawful presence.
- 240. — Invalid reentry of permanent residents.
- 241. Security and related grounds.
- 242. — In general.
- 243. — Terrorist activity.
- 244. — Foreign policy concerns.
- 245. Assisting in persecution or genocide.
- 246. Defenses.

(C) REMOVAL OR DEPORTATION; GROUNDS.

- 249. In general.
- 250. Removal or deportation not punishment.
- 251. Necessity of entry; mode.
- 252. — In general.
- 253. — Reentry or new entry.
- 254. Inadmissible at time of entry, reentry, or adjustment of status.
- 255. Unlawful entry or reentry and unlawful presence.
- 256. — In general.
- 257. — Misrepresentation on visa application.
- 258. Expiration or revocation of visa; overstay.
- 259. Change of status.
- 260. False claim of citizenship.
- 261. Marriage.
- 262. — In general.
- 263. — Effect of marriage or divorce.
- 264. — Marriage fraud.
- 265. Involuntary entry, reentry, or departure.

24. ALIENS, IMMIGRATION, AND CITIZENSHIP**V. DENIAL OF ADMISSION AND
REMOVAL.(Cont'd)**

- 266. Seamen and similar transients.
- 267. Violation of conditions.
- 268. — In general.
- 269. — Failure to register or report address change.
- 270. Crime and related grounds.
- 271. — In general.
- 272. — Crimes of moral turpitude in general.
- 273. — Aggravated felonies in general.
- 274. — Controlled substances offenses.
- 275. — Sex offenses.
- 276. — Crimes of violence.
- 277. — Fraud, forgery, and theft offenses.
- 278. — Firearms offenses.
- 279. — Number of crimes or convictions.
- 280. — Time of crime or conviction.
- 281. — What constitutes conviction.
 - (1). In general.
 - (2). Finality.
 - (3). Effect of expungement or vacation.
 - (4). Juvenile violations and proceedings.
- 282. — Sentencing requirements.
 - (1). In general.
 - (2). Length of sentence.
 - (3). Effect of suspension or probation.
 - (4). Recommendation for or against removal; plea agreements.
- 283. — Effect of pardon or parole.
- 284. — Collateral attack on conviction.
- 285. Security and related grounds.
- 286. — In general.
- 287. — Espionage and enemy aliens.
- 288. — Membership in subversive organization.
- 289. — Terrorist activity.
- 290. — Foreign policy concerns.
- 291. Assisting in persecution or genocide.
- 292. Defenses.

**(D) RELIEF FROM DENIAL OF ADMISSION
OR REMOVAL IN GENERAL.**

- 299. In general.
- 300. Discretionary relief in general.
- 301. Waiver of inadmissibility or removal in general.

**V. DENIAL OF ADMISSION AND
REMOVAL.(Cont'd)**

- 302. Legalization and amnesty.
- 303. Registry.
- 304. Voluntary departure.
- 305. — In general.
- 306. — Good moral character requirement.
- 307. — Time for departure; extensions.
- 308. — Failure to depart.
- 309. Adjustment of status.
- 310. Cancellation of removal or suspension of deportation in general.
- 311. — In general.
- 312. — Good moral character requirement.
- 313. Continuous physical presence or unrelinquished domicile.
- 314. — In general.
- 315. — Stop time rule.
- 316. Marriage as basis for relief.
- 317. Hardship as basis for relief.
- 318. Stay of removal or deportation.
- 319. Commission of crime as basis for denial of relief.
- 320. — In general.
- 321. — Aggravated felonies in general.
- 322. — Controlled substances offenses.
- 323. — Sex offenses.
- 324. — Length of sentence or imprisonment.

(E) ADMINISTRATIVE PROCEDURE.

- 329. In general.
- 330. Civil proceedings in general.
- 331. Distinction between admissibility and removal proceedings.
- 332. Time limitations in general.
- 333. Expedited removal.
- 334. Application or petition.
- 335. — In general.
- 336. — Time limitations for filing.
- 337. Notice; order to show cause.
- 338. Informing alien of rights in general.
- 339. Hearing.
- 340. — In general.
- 341. — Right to hearing.
- 342. — Venue.
- 343. — Attendance at hearing; failure to appear.

24. ALIENS, IMMIGRATION, AND CITIZENSHIP**V. DENIAL OF ADMISSION AND
REMOVAL.(Cont'd)**

- 344. — Time for hearing; continuance.
- 345. — Witnesses.
- 346. — Conduct of hearing; fairness in general.
- 347. — Assistance of counsel.
- 348. — Assistance of translator.
- 349. — Findings or statement of reasons.
- 350. — Determination.
- 351. Administrative review.
- 352. — In general.
- 353. — Time limitations.
 - (1). In general.
 - (2). Tolling.
- 354. — Summary dismissal.
- 355. — Findings or statement of reasons.
- 356. — Determination.
- 357. — Summary affirmance; single or multiple member review.
- 358. Reopening, reconsideration, or remand.
- 359. — In general.
- 359.5. — Numerical limitations.
- 360. — Time limitations.
 - (1). In general.
 - (2). Tolling.
- 361. — Discretion.
- 362. — Grounds and factors considered.
 - (1). In general.
 - (2). New evidence, facts, or circumstances.
 - (3). Excuse for failure to appear at hearing; insufficient notice.
 - (4). Ineffectiveness of counsel.
- 363. — Hearing or rehearing.
- 364. — Findings, statement of reasons, and determination.

(F) ORDER AND WARRANT; ENFORCEMENT.

- 369. In general.
- 370. Reinstatement of order.
- 371. Place to where removed or deported.
- 372. — In general.
- 373. — Acceptance by government.
- 374. Operation and effect in general.
- 375. Collateral attack.
- 376. — In general.
- 377. — Failure to advise alien of rights in general.

**V. DENIAL OF ADMISSION AND
REMOVAL.(Cont'd)**

- 378. — Ineffective counsel.
- 379. — Denial of right to appeal; waiver of right.
- 380. Conclusiveness; res judicata and collateral estoppel.
- 381. Expenses; carriers' and third persons' rights, duties, and liabilities.

(G) JUDICIAL REVIEW OR INTERVENTION.

- 384. In general.
- 385. Jurisdiction and venue.
- 386. Exhaustion of remedies in general.
- 387. Right of review or intervention; standing.
- 388. Presentation and preservation of questions at administrative level.
- 389. Presentation of questions in brief or petition.
- 390. Stay pending review.
- 391. Record.
- 392. Decisions reviewable.
- 393. Time limitations.
- 394. — In general.
- 395. — Tolling.
- 396. Standard and scope of review.
- 397. — In general.
- 398. — Review of initial decision or administrative review.
- 399. — De novo review in general.
- 400. — Presumptions.
- 401. — Review of discretion.
- 402. — Constitutional questions.
- 403. — Fact questions.
 - (1). In general.
 - (2). Substantial evidence in general.
 - (3). Credibility.
- 404. — Law questions.
- 405. — Effect of irregularities; harmless or prejudicial error.
- 406. Determination.
- 407. — In general.
- 408. — Affirmance.
- 409. — Modification.
- 410. — Reversal.
- 411. — Remand.
- 412. Further administrative proceedings.
- 413. Injunction.
- 414. Subsequent review.

24. ALIENS, IMMIGRATION, AND CITIZENSHIP**(H) EVIDENCE IN ADMINISTRATIVE
OR JUDICIAL PROCEEDINGS.**

- 420. In general.
- 421. Administrative notice.
- 422. Presumptions and burden of proof.
- 423. Admissibility.
- 424. Weight and sufficiency.
- 425. — In general.
- 426. — Adverse credibility determinations in general.
- 427. — Unlawful entry or reentry and unlawful presence.
- 428. — Marriage fraud.
- 429. — Crimes and immorality.
- 430. — Security and related grounds.

**VI. ARREST, DETENTION, SUPERVISION,
AND PAROLE.****(A) IN GENERAL.**

- 435. In general.
- 436. Constitutional and statutory provisions.

(B) BORDER STOPS AND INSPECTIONS.

- 440. In general.
- 441. Grounds or cause for stop.
- 442. Searches incident to stop or inspection.
- 443. Time and distance factors.
- 444. — In general.
- 445. — Checkpoints.
- 446. — Airport stops.

(C) ARREST.

- 450. In general.
- 451. Arrest warrants.
- 452. Arrests without warrants.
- 453. — In general.
- 454. — Probable cause.
- 455. Investigatory stops and temporary detention; interrogation.
- 456. Searches incident to arrest.
- 457. Advising alien of rights in general.
- 458. Notice of right to contact consulate.
- 459. Effect of unlawful arrest or search.

(D) DETENTION, SUPERVISION, AND PAROLE.

- 460. In general.
- 461. Supervision in general.
- 462. Detention in general.

**VI. ARREST, DETENTION, SUPERVISION,
AND PAROLE.(Cont'd)**

- 463. Detention of inadmissible or excludable aliens.
- 464. Detention pending removal proceeding.
- 465. — In general.
- 466. — Time limitations.
- 467. Detention after order of removal.
- 468. — In general.
- 469. — Time limitations; indefinite detention.
- 470. Bond or bail.
- 471. Parole or temporary admission.
- 472. — In general.
- 473. — Discretion.
- 474. — Grounds for parole or denial; determination.
- 475. — Effect of parole; rights of paroled aliens.
- 476. — Revocation or expiration.
- 477. Incarcerated aliens.
- 478. — In general.
- 479. — Removal or deportation before completion of sentence.
- 480. — Detention after completion of sentence.

(E) JUDICIAL REVIEW OR INTERVENTION.

- 485. In general.

**VII. ASYLUM, REFUGEES,
AND WITHHOLDING
OF REMOVAL.****(A) IN GENERAL.**

- 490. In general.
- 491. Constitutional and statutory provisions.
- 492. — In general.
- 493. — Purpose.
- 494. — Validity.
- 495. — Retroactive operation.

**(B) ASYLUM DISTINGUISHED FROM WITHHOLDING
OF REMOVAL OR DEPORTATION.**

- 500. In general.
- 501. Discretionary or mandatory.
- 502. Reasonable fear of persecution or clear probability standard.
- 503. Effect of failure to meet standard for asylum.

24. ALIENS, IMMIGRATION, AND CITIZENSHIP**(C) ELIGIBILITY; REFUGEE STATUS.**

- 504. In general.
- 505. Ineligible aliens.
- 506. — In general.
- 507. — Aliens not within United States.
- 508. — Participants in persecution.
- 509. — Crimes and related grounds.
 - (1). In general.
 - (2). Aggravated felonies in general.
 - (3). Controlled substances offenses.
 - (4). Sex offenses.
- 510. — Security and related grounds.
 - (1). In general.
 - (2). Terrorist activity.
- 511. — Aliens firmly resettled in third country.
- 512. — Aliens able to relocate in other part of home country.
- 513. Temporary protected status.

(D) PERSECUTION.

- 520. In general.
- 521. Standards for persecution.
- 522. — In general.
- 523. — Past persecution.
 - (1). In general.
 - (2). Particular cases.
 - (3). Humanitarian grant.
- 524. — Well founded fear of future persecution.
 - (1). In general.
 - (2). Particular cases.
- 525. — Subjective and objective tests.
 - (1). In general.
 - (2). Particular cases.
- 526. — Clear probability standard for withholding of removal.
 - (1). In general.
 - (2). Particular cases.
- 527. Acts constituting persecution.
- 528. — In general.
- 529. — Economic deprivation.
- 530. — Threats, harassment, and acts of violence.
 - (1). In general.
 - (2). Family members or neighbors.
- 531. — Detention or imprisonment.
- 532. — Compulsory military service.
- 533. — Female genital mutilation.

VII. ASYLUM, REFUGEES, AND WITHHOLDING OF REMOVAL.(Cont'd)

- 534. Grounds for persecution; protected groups.
- 535. — In general.
- 536. — Race.
- 537. — Religion.
- 538. — Nationality.
- 539. — Membership in social group.
- 540. — Political opinion in general.
- 541. — Forced abortion or coerced sterilization.
- 542. Government action or acquiescence.
- 543. Changed country conditions.

(E) RELIEF UNDER TREATIES AGAINST TORTURE.

- 550. In general.
- 551. Acts constituting torture.
- 552. Standard for relief.
- 553. Government action or acquiescence.

(F) ADMINISTRATIVE PROCEDURE.

- 560. In general.
- 561. Application.
- 562. — In general.
- 563. — Time limitations for filing.
- 563.5. — Frivolous application.
- 564. Hearing or interview.
- 565. — In general.
- 566. — Right to hearing.
- 567. — Notice.
- 568. — Venue.
- 569. — Attendance at hearing; failure to appear.
- 570. — Time for hearing; continuance.
- 571. — Witnesses.
- 572. — Conduct of hearing; fairness in general.
- 573. — Assistance of counsel.
- 574. — Assistance of translator.
- 575. — Findings or statement of reasons.
- 576. — Determination.
- 577. Administrative review.
- 578. — In general.
- 579. — Time limitations.
 - (1). In general.
 - (2). Tolling.
- 580. — Findings or statement of reasons.
- 581. — Determination.

24. ALIENS, IMMIGRATION, AND CITIZENSHIP**VII. ASYLUM, REFUGEES,
AND WITHHOLDING OF
REMOVAL.(Cont'd)**

- 582. — Summary affirmance; single or multiple member review.
- 583. Reopening, reconsideration, or remand.
- 584. — In general.
- 584.5. — Numerical limitations.
- 585. — Time limitations.
 - (1). In general.
 - (2). Tolling.
- 586. — Discretion.
- 587. — Grounds and factors considered.
 - (1). In general.
 - (2). New evidence, facts or circumstances.
 - (3). Excuse for failure to appear at hearing; insufficient notice.
 - (4). Changed country conditions.
 - (5). Ineffectiveness of counsel.
- 588. — Hearing or rehearing.
- 589. — Findings, statement of reasons, and determination.
- 590. Decision or order.
- 591. — In general.
- 592. — Conclusiveness.
- 593. Expenses; carriers' and third persons' rights, duties, and liabilities.

(G) JUDICIAL REVIEW OR INTERVENTION.

- 599. In general.
- 600. Jurisdiction and venue.
- 601. Exhaustion of remedies in general.
- 602. Right of review or intervention; standing.
- 603. Presentation and preservation of questions at administrative level.
- 604. Presentation of questions in brief or petition.
- 605. Stay pending review.
- 606. Record.
- 607. Decisions reviewable.
- 608. Time limitations.
- 609. — In general.
- 610. — Tolling.
- 611. Standard and scope of review.
- 612. — In general.
- 613. — Review of initial decision or administrative review.
- 614. — De novo review in general.

**VII. ASYLUM, REFUGEES,
AND WITHHOLDING OF
REMOVAL.(Cont'd)**

- 615. — Presumptions.
- 616. — Review of discretion.
- 617. — Constitutional questions.
- 618. — Fact questions.
 - (1). In general.
 - (2). Substantial evidence in general.
 - (3). Credibility.
- 619. — Law questions.
- 620. — Effect of irregularities; harmless or prejudicial error.
- 621. Determination.
- 622. — In general.
- 623. — Affirmance.
- 624. — Modification.
- 625. — Reversal.
- 626. — Remand.
- 627. Further administrative proceedings.
- 628. Injunction.
- 629. Subsequent review.

**(H) EVIDENCE IN ADMINISTRATIVE
OR JUDICIAL PROCEEDINGS.**

- 635. In general.
- 636. Administrative notice.
- 637. Presumptions and burden of proof.
- 638. — In general.
- 639. — Past persecution.
- 640. Admissibility.
- 641. Weight and sufficiency.
- 642. — In general.
- 643. — Adverse credibility determinations in general.
- 644. — Country conditions; official reports.

VIII. CITIZENSHIP AND NATURALIZATION.**(A) CITIZENSHIP.**

- 650. In general.
- 651. Constitutional and statutory provisions.
- 652. Who are citizens.
- 653. — In general.
- 654. — Nationals of United States.
- 655. — Persons born within jurisdiction.
- 656. — Persons born before independence of colonies.
- 657. — Foreign citizens in territories acquired by United States.

24. ALIENS, IMMIGRATION, AND CITIZENSHIP

VIII. CITIZENSHIP AND
NATURALIZATION.(Cont'd)

- 658. — Inhabitants of territory admitted as state.
- 659. — Persons married to citizens.
- 660. — Persons married to aliens.
- 661. — Children of citizens in general.
- 662. — Children of citizens born abroad; acquired citizenship.
 - (1). In general.
 - (2). Children born out-of-wedlock.
- 663. — Dual nationality.
- 664. Proceedings to determine citizenship.
- 665. — In general.
- 666. — Jurisdiction, venue, and prerequisites to suit.
- 667. — Persons entitled to sue.
- 668. — Parties.
- 669. — Petition or pleading.
- 670. — Evidence.
 - (1). In general.
 - (2). Presumptions and burden of proof.
 - (3). Admissibility.
 - (4). Weight and sufficiency.
- 671. — Hearing or trial.
- 672. Nature and incidents of citizenship in general.
- 673. Restrictions on travel.
- 674. Passports and travel documents.
- 675. — In general.
- 676. — Revocation.
- 677. — Proceedings.
- 678. Citizens of United States and of the several states.
- 679. Transfer of citizenship on cession of territory.
- 680. Expatriation.
- 681. — In general.
- 682. — Power of Congress; statutory provisions.
- 683. — Grounds and acts constituting.
 - (1). In general.
 - (2). Renunciation of citizenship.
 - (3). Allegiance, naturalization, or service to foreign country.
 - (4). Participation in foreign election.
 - (5). Infants and derivative citizens.
 - (6). Dual nationals.
- 684. — Proceedings.

VIII. CITIZENSHIP AND
NATURALIZATION.(Cont'd)

- (1). In general.
- (2). Evidence and fact questions.
- 685. — Reacquiring citizenship.
- (B) NATURALIZATION.
- 689. In general.
- 690. Power to naturalize.
- 691. Constitutional and statutory provisions.
- 692. — In general.
- 693. — Purpose.
- 694. — Validity.
- 695. — Retroactive operation.
- 696. Nature of and right to naturalization.
- 697. Persons capable.
- 698. Qualifications.
- 699. — In general.
- 700. — Age.
- 701. — Residence and physical presence.
 - (1). In general.
 - (2). Mode of entry.
 - (3). Temporary absences; exceptions.
- 702. — Literacy and educational requirements.
- 703. — Good moral character.
 - (1). In general.
 - (2). Crimes in general.
 - (3). Aggravated felonies in general.
 - (4). Controlled substances offenses.
 - (5). Moral turpitude.
 - (6). Effect of parole, probation, or pardon.
 - (7). Sex offenses.
- 704. — Claim of exemption from military service.
- 705. — Attachment to constitutional principles.
- 706. — Oath of allegiance.
- 707. — Alien enemies and aliens with foreign military service.
- 708. Particular types of aliens.
- 709. — In general.
- 710. — Persons serving in or honorably discharged from armed forces.
- 711. — Seamen serving on merchant vessels.
- 712. — Spouses of citizens.
- 713. — Children of citizens and derivative citizenship.

24. ALIENS, IMMIGRATION, AND CITIZENSHIP**VIII. CITIZENSHIP AND
NATURALIZATION.(Cont'd)**

- 714. — Persons with disabilities.
- 715. Proceedings for naturalization.
- 716. — In general.
- 717. — Jurisdiction and venue.
- 718. — Declaration of intention.
- 719. — Certificate of arrival or entry.
- 720. — Application.
 - (1). In general.
 - (2). Time limitations.
- 721. — Examination.
- 722. — Witnesses.
- 723. — Evidence.
 - (1). In general.
 - (2). Presumptions and burden of proof.
 - (3). Admissibility.
 - (4). Weight and sufficiency.
- 724. — Hearing.
- 725. — Decision.
- 726. — Review.
- 727. Record, certificate, and evidence of naturalization.
- 728. Operation and effect.
- 729. Denaturalization.
- 730. — In general.
- 731. — Constitutional and statutory provisions.
- 732. — Grounds in general.
- 733. — Illegal or fraudulent procurement of naturalization in general.
- 734. — Ineligibility for citizenship.
 - (1). In general.
 - (2). Assistance in persecution.
- 735. — Moral character in general.
- 736. — Concealment of material fact or willful misrepresentation in application.
- 737. — Disloyalty.
- 738. — Errors and irregularities in naturalization proceedings.
- 739. — Defenses.
- 740. Proceedings for denaturalization.
- 741. — In general.
- 742. — Nature and form of remedy.
- 743. — Jurisdiction and venue.
- 744. — Limitations and laches.
- 745. — Process.

**VIII. CITIZENSHIP AND
NATURALIZATION.(Cont'd)**

- 746. — Preliminary complaint or affidavit.
- 747. — Pleading.
- 748. — Evidence.
 - (1). In general.
 - (2). Presumptions and burden of proof.
 - (3). Admissibility.
 - (4). Weight and sufficiency.
- 749. — Hearing.
- 750. — Determination.
- 751. — Review.

IX. ALIEN TORT CLAIMS.

- 760. In general.
- 761. Torts covered.
- 762. — In general.
- 763. — Violation of law of nations.
- 764. — Violation of treaty of United States.
- 765. Persons liable; state action.
- 766. Actions.
- 767. Torture victim protection.

**X. OFFENSES, PENALTIES
AND PROSECUTIONS.**

- 769. In general.
- 770. Constitutional and statutory provisions.
- 771. Unlawful entry or presence.
- 772. Possession of firearm.
- 773. Reentry after removal.
- 774. Facilitating unlawful entry or unlawful presence.
- 775. — In general.
- 776. — Participating in, encouraging, or inducing unlawful entry.
- 777. — Transporting alien.
- 778. — Harboring or concealing alien.
- 779. Failure to register or possess registration certificate.
- 780. False claim of citizenship.
- 781. Fraud or misuse of visas, permits, or other documents.
- 782. Illegal or fraudulent procurement of naturalization.
- 783. False statement in passport application.
- 784. Marriage fraud.
- 785. Failure to comply with removal or deportation.

25. ALTERATION OF INSTRUMENTS**X. OFFENSES, PENALTIES AND PROSECUTIONS.**(Cont'd)

- 786. Employment of undocumented alien.
- 787. — In general.
- 788. — Failure of employer to verify status.
- 789. — Use of fraudulent documents by alien.
- 790. Liability of vessel, owner or master.
- 791. Actions for civil penalties.
- 792. Prosecutions.
- 793. — In general.
- 794. — Indictment and information.
- 795. — Evidence.
 - (1). In general.
 - (2). Presumptions and burden of proof.
 - (3). Admissibility.
 - (4). Weight and sufficiency.
- 796. — Trial.
- 797. — Questions for jury.
- 798. — Instructions.
- 799. — Sentencing and punishment.

25. ALTERATION OF INSTRUMENTS**SUBJECTS INCLUDED**

Acts done upon instruments in writing, by a party or parties thereto or interested therein, by which the language or meaning is changed

Materiality and effect of such alterations in general

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Bona fide purchasers of altered negotiable paper, rights of, see **BILLS AND NOTES**

Forgery, see **FORGERY**

Insurance policies, see **INSURANCE XIII(J)**

Records, alterations of, see **RECORDS**

Wills, alterations of made by the testator, see **WILLS**

- 1. Materiality.

- 1.1. — In general.
- 2. — Nature and extent of change in general.
- 3. — Parties.
- 4. — Consideration.
- 5. — Subject-matter.
 - (1). In general.
 - (2). Negotiable instruments.
- 6. — Place, time, and date.
- 7. — Filling blanks.
- 8. — Signatures, indorsements, and seals.
- 9. — Marginal matter and annexed writings.
- 10. Time of alteration.
- 11. Persons making alteration, and intent.
 - (1). In general.
 - (2). Alteration by stranger.
- 12. Authority or consent of parties.
- 13. Ratification or waiver.
- 14. Restoration of instrument.
- 15. Effect upon rights of parties.
 - 15.1. — In general.
- 16. — Written instruments in general.
- 17. — Conveyances.
- 18. — Contracts in general.
- 19. — Obligations under seal.
- 20. — Negotiable instruments.
- 21. — Official certificates and returns.
- 22. Persons who may complain of alteration or question validity of instrument.
- 23. Rights founded on original transaction or consideration.
- 24. Admissibility of instrument in evidence.
 - (1). In general.
 - (2). Necessity of explanation.
- 25. Pleading.
- 26. Evidence.
 - 26.1. — In general.
- 27. — Presumptions.
 - 27.1. — Burden of proof.
 - (1). In general.
 - (2). Explaining alterations.
- 28. — Admissibility in general.
- 29. — Weight and sufficiency.
- 30. Questions for jury.

25T. ALTERNATIVE DISPUTE RESOLUTION**25T. ALTERNATIVE DISPUTE
RESOLUTION****SUBJECTS INCLUDED**

Submission of controversies by the parties thereto to persons chosen by themselves for determination, including arbitration, mediation, appraisal, conciliation, and other methods

Agreements to arbitrate or mediate disputes, and enforcement thereof

Requisites, validity, operation and effect of such submission and the award thereon

Rights, powers, duties and proceedings of arbitrators, mediators, appraisers, umpires, etc.

Enforcing, modifying, or setting aside award

Pleading arbitration and award as defense

**SUBJECTS EXCLUDED AND COVERED
BY OTHER TOPICS**

Mediated settlement agreements, see **COMPROMISE AND SETTLEMENT**

Reference of issues in pending actions under provision of statutes or rules or orders of courts, see **REFERENCE**

Public bodies, arbitration of claims against, see **STATES, MUNICIPAL CORPORATIONS**, and other specific topics

Particular classes of contracts, stipulations for arbitration in, see **INSURANCE, LABOR AND EMPLOYMENT, LANDLORD AND TENANT, PARTNERSHIP**, and other specific topics

Labor disputes, arbitration of, see **LABOR AND EMPLOYMENT XII(H)**

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International law disputes between sovereign governments, arbitration of, see **INTERNATIONAL LAW** ¶13

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(H) REVIEW, CONCLUSIVENESS, AND ENFORCEMENT OF AWARD, ¶350-409.

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I. IN GENERAL.

100. In general.

II. ARBITRATION.**(A) NATURE AND FORM OF PROCEEDING.**

110. In general.

111. Nature, purpose, and right to arbitration in general.

112. Contractual or consensual basis.

113. Arbitration favored; public policy.

114. Constitutional and statutory provisions and rules of court.

115. Common law or statutory arbitration.

116. What law governs.

117. Preemption.

118. Matters which may be subject to arbitration under law.

119. — In general.

120. — Matters of public interest.

25T. ALTERNATIVE DISPUTE RESOLUTION**II. ARBITRATION.(Cont'd)**

- 121. — Statutory rights and obligations.
- 122. — Property ownership and rights.
- 123. — Illegal contracts and transactions.
- 124. — Employment disputes.
- 125. Compulsory arbitration.

(B) AGREEMENTS TO ARBITRATE.

- 130. In general.
- 131. Requisites and validity.
- 132. — In general; formation of agreement.
- 133. — Formal requisites.
 - (1). In general.
 - (2). Writing, signature, and acknowledgment.
- 134. — Validity.
 - (1). In general.
 - (2). Consideration.
 - (3). Validity of assent.
 - (4). Choice of law.
 - (5). Forum selection.
 - (6). Unconscionability.
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- 136. Construction.
- 137. — In general.
- 138. — Liberal or strict construction.
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- 141. Persons affected or bound.
- 142. Disputes and matters arbitrable under agreement.
- 143. — In general.
- 144. — Building contracts disputes.
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- 148. Place of arbitration.
- 149. Designation of arbitrators.
- 150. Operation and effect.
- 151. — In general.
- 152. — As ousting jurisdiction of or precluding resort to courts.
- 153. — As condition precedent to action; exhaustion or prior resort.
- 154. — Effect on pending action.
- 155. — Partial arbitrability.

II. ARBITRATION.(Cont'd)

- 156. — Provisional remedies; injunction, attachment, or declaratory judgment.

(C) SUBMISSION.

- 160. In general.
- 161. Nature and necessity.
- 162. Requisites and validity.
- 163. — In general.
- 164. — Writing, signature, and acknowledgment.
- 165. — Designation of subject matter.
- 166. Making submission rule or order of court.
- 167. Arbitration bonds and notes.
- 168. Amendment or modification.
- 169. Revocation or setting aside.
- 170. Construction and operation.
- 171. — In general.
- 172. — Parties bound.
- 173. — Scope of submission.
- 174. — Effect on pending or subsequent action.

(D) PERFORMANCE, BREACH, ENFORCEMENT, AND CONTEST.

- 175. In general.
- 176. Performance or breach.
- 177. Right to enforcement and defenses in general.
- 178. — In general.
- 179. — Persons entitled to enforce.
- 180. — Conditions precedent.
- 181. — Applicant's default, delay, or laches.
- 182. — Waiver or estoppel.
 - (1). In general.
 - (2). Suing or participating in suit.
- 183. Demand or notice.
- 184. Jurisdiction and powers of court.
- 185. Stay of arbitration.
- 186. — In general.
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- 188. — Proceedings.
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- 190. Stay of proceedings pending arbitration.
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25T. ALTERNATIVE DISPUTE RESOLUTION**II. ARBITRATION.(Cont'd)**

- 195. — Dismissal.
- 196. — Particular cases.
- 197. Matters to be determined by court.
- 198. — In general.
- 199. — Existence and validity of agreement.
- 200. — Arbitrability of dispute.
- 201. — Conditions precedent to arbitration; procedural arbitrability.
- 202. — Waiver, laches, or estoppel.
- 203. — Merits of controversy.
- 204. Remedies and proceedings for enforcement in general.
- 205. — In general.
- 206. — Nature and form of proceeding.
- 207. — Limitations.
- 208. — Parties.
- 209. — Pleading.
- 210. — Evidence.
- 211. — Trial or hearing.
- 212. — Judgment or order.
- 213. — Review.
 - (1). In general.
 - (2). Jurisdiction.
 - (3). Decisions reviewable; finality.
 - (4). Presentation and reservation of grounds for review.
 - (5). Scope and standards of review.
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- 214. — Costs.
- 215. Failure to arbitrate.
- 216. — In general.
- 217. — Sanctions.
- 218. Liabilities on arbitration bonds and agreements.

(E) ARBITRATORS.

- 220. In general.
- 221. Appointment.
- 222. Competency.
- 223. Oath.
- 224. Arbitrator standards and discipline.
- 225. — In general.
- 226. — Standards or codes of conduct.
- 227. — Proceedings.
- 228. Nature and extent of authority.
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II. ARBITRATION.(Cont'd)

- 230. — Agreement or submission as determinative.
- 231. — Particular issues or questions.
- 232. — Questions of law or fact.
- 233. — Grounds and rules of decision.
- 234. — Matters considered; personal knowledge.
- 235. — Scope of relief.
- 236. Termination of authority.
- 237. Delegation of authority.
- 238. Arbitration organizations.
- 239. Umpire or third arbitrator.
- 240. — In general.
- 241. — Necessity for appointment.
- 242. — Appointment and qualification.
- 243. — Authority.
- 244. — Proceedings.
- 245. — Decision of controversy.
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- 247. Liabilities of arbitrators.

(F) ARBITRATION PROCEEDINGS.

- 250. In general.
- 251. Mode and course of proceedings in general.
- 252. Discovery and depositions.
- 253. Subpoenas.
- 254. Dismissal.
- 255. Consolidation of proceedings.
- 256. Hearing.
- 257. — In general.
- 258. — Right to hearing.
- 259. — Notice.
- 260. — Time and place.
- 261. — Counsel in general.
- 262. — Presence of parties and counsel.
- 263. — Adjournments; continuance.
- 264. Reception of evidence.
- 265. — In general.
- 266. — Application of judicial rules.
- 267. — Witnesses.
- 268. Concurrence of arbitrators in proceedings and decision.
- 269. Costs.
- 270. Objections.
- 271. — In general.
- 272. — To arbitrators or umpire.

25T. ALTERNATIVE DISPUTE RESOLUTION**II. ARBITRATION.(Cont'd)**

- 273. — For defects and irregularities in proceedings.
- 274. Waiver of objections.
- 275. — In general.
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- 277. — To arbitrators or umpire.
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- 280. — Oath.
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(G) AWARD.

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- 301. Nature and essentials in general.
- 302. Making and formal requisites.
- 303. — In general.
- 304. — Time of making.
- 305. — Mode and form of making.
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- 307. — Findings, conclusions, and reasons for decision.
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- 310. — Return to court.
- 311. Sufficiency in general.
- 312. Conformity to public policy.
- 313. Conformity to submission.
- 314. — In general.
- 315. — Parties to award.
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- 317. Completeness.
- 318. Mutuality.
- 319. Finality.
- 320. Certainty.
- 321. — In general.
- 322. — Parties.
- 323. — Subject matter.
- 324. Consistency and reasonableness; lack of evidence.
- 325. Amount of award, or overvaluation and undervaluation.
- 326. Defects and irregularities in procedure.
- 327. Mistake or error.
- 328. — In general.
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- 330. — Mistake of fact and miscalculation.

II. ARBITRATION.(Cont'd)

- 331. Fraud, partiality, or misconduct.
- 332. — In general.
- 333. — Parties' fraud or misconduct.
- 334. — Arbitrators' fraud or misconduct in general.
- 335. — Prejudice or partiality and interest in subject matter.
- 336. Partial invalidity.
- 337. Presumptions and burden of proof.
- 338. — In general.
- 339. — Conformity to submission.
- 340. — Burden of showing error or invalidity.
- 341. Ratification; waiver or repudiation.
- 342. Objections and exceptions to award, and waiver thereof.
- 343. Amended and supplemental awards.
- 344. Reconsideration by arbitrators.

(H) REVIEW, CONCLUSIVENESS, AND ENFORCEMENT OF AWARD.

- 350. In general.
- 351. Arbitration appeal boards and internal review.
- 352. Recommittal to arbitrators by court.
- 353. Confirmation or acceptance by court.
- 354. — In general.
- 355. — Jurisdiction and venue.
- 356. — Application or petition.
- 357. — Proceedings.
- 358. — Scope of inquiry.
- 359. — Costs.
- 360. Impeachment or vacation.
- 361. — In general.
- 362. — Grounds for impeachment or vacation.
 - (1). In general.
 - (2). Limitation to statutory grounds.
 - (3). Particular grounds.
 - (4). Newly discovered evidence.
- 363. — Motion to set aside or vacate.
 - (1). In general.
 - (2). Nature and form of remedy.
 - (3). Jurisdiction and venue.
 - (4). Time for proceeding.
 - (5). Form and sufficiency of motion.
 - (6). Scope of inquiry in general.
 - (7). Merits.

25T. ALTERNATIVE DISPUTE RESOLUTION**II. ARBITRATION.(Cont'd)**

- (8). Affidavits, evidence, or record.
- (9). Determination and disposition.
- (10). Modification.
- 364. — Costs.
- 365. — Action to set aside or vacate.
- 366. Appeal or other proceedings for review.
- 367. — In general.
- 368. — Decisions reviewable.
- 369. — Right of review.
- 370. — Parties.
- 371. — Presentation and reservation of grounds of review.
- 372. — Proceedings for transfer.
- 373. — Record and briefs.
- 374. — Scope and standards of review.
 - (1). In general.
 - (2). Matters or evidence considered.
 - (3). Merits.
 - (4). Evidence and trial de novo.
 - (5). Presumptions.
 - (6). Discretion.
 - (7). Questions of law or fact.
 - (8). Harmless error.
- 375. — Hearing and determination in general.
- 376. — Modification.
- 377. — Costs.
- 378. Collateral attack.
- 379. Construction and operation in general.
- 380. Merger and bar of causes of action and defenses.
- 381. Conclusiveness of adjudication.
- 382. — In general.
- 383. — Impeachment for misbehavior, fraud, or mistake only.
- 384. — Erroneous or void awards in general.
- 385. — Persons concluded.
- 386. — Matters concluded.
- 387. — Effect of entry of judgment on award.
- 388. Performance of award.
- 389. — In general.
- 390. — Excuse for nonperformance.
- 391. Enforcement in general.
- 392. Entry of judgment on award.
- 393. Actions to enforce award.
- 394. — In general.

II. ARBITRATION.(Cont'd)

- 395. — Right of action and form of remedy.
- 396. — Defenses.
- 397. — Conditions precedent.
- 398. — Time to sue and limitations.
- 399. — Parties.
- 400. — Pleading.
- 401. — Evidence.
- 402. — Trial.
- 403. — Judgment.
- 404. — Review.
- 405. — Costs.
- 406. Pleading and evidence of award as estoppel or defense.
- 407. Parol evidence as to award.
- 408. — In general.
- 409. — Testimony of arbitrators.
- (I) EXCHANGES AND DEALER ASSOCIATIONS.**
- 410. In general.
- 411. Relations between customer-investors and broker-dealers.
- 412. — In general.
- 413. — Agreements to arbitrate.
- 414. — Performance, breach, enforcement, and contest of agreement.
- 415. — Arbitrators and proceedings.
- 416. — Award.
- 417. — Review, conclusiveness, and enforcement of award.
- 418. Employees of exchanges or dealer associations.
- 419. — In general.
- 420. — Agreements to arbitrate.
- 421. — Performance, breach, enforcement, and contest of agreement.
- 422. — Arbitrators and proceedings.
- 423. — Award.
- 424. — Review, conclusiveness, and enforcement of award.
- 425. Mutual dealings of exchanges or dealer associations.
- 426. — In general.
- 427. — Agreements to arbitrate.
- 428. — Performance, breach, enforcement, and contest of agreement.
- 429. — Arbitrators and proceedings.
- 430. — Award.

26. AMBASSADORS AND CONSULS**II. ARBITRATION.**(Cont'd)

431. — Review, conclusiveness, and enforcement of award.

III. MEDIATION.**(A) IN GENERAL.**

440. In general.
 441. Nature, purpose, and right to mediation in general.
 442. Contractual or consensual basis.
 443. Mediation favored; public policy.
 444. Compulsory mediation; mediation as condition precedent.

(B) AGREEMENTS TO MEDIATE.

450. In general.
 451. Requisites and validity.
 452. Persons affected.
 453. Matters within scope of agreement.
 454. Construction, operation and effect.

(C) PERFORMANCE, BREACH, ENFORCEMENT, AND CONTEST OF AGREEMENT TO MEDIATE.

460. In general.
 461. Right to enforcement and defenses.
 462. Remedies and proceedings.
 463. Failure to mediate.

(D) MEDIATORS.

470. In general.
 471. Mediator standards; discipline.
 472. Selection and qualifications.
 473. Nature and extent of authority.
 474. Liabilities; immunity.

(E) MEDIATION PROCEEDINGS.

480. In general.
 481. Mode and course of proceedings.
 482. Award; evaluation.
 483. — In general.
 484. — Making and formal requisites.
 485. — Ratification, waiver, or repudiation.
 486. — Confirmation or acceptance by court.
 487. — Impeachment or vacation.
 488. — Appeal or other proceeding for review.
 489. — Operation and effect.

III. MEDIATION.(Cont'd)

490. — Enforcement.
 491. Costs.
 492. Sanctions for failure to accept mediation award.

IV. OTHER DISPUTE RESOLUTION METHODS.

500. In general.
 501. Appraisal.
 502. Conciliation.

V. FOREIGN DISPUTE RESOLUTION PROCEEDINGS.

510. In general.
 511. What law governs.
 512. International arbitration organizations.
 513. Agreements.
 514. Proceedings.
 515. Enforcement and recognition of awards.

26. AMBASSADORS AND CONSULS**SUBJECTS INCLUDED**

Diplomatic and consular officers and agents
 Their appointment, qualification, recognition, tenure, and recall
 Their rights, privileges, powers, duties, and liabilities

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Federal court jurisdiction of actions involving, see **FEDERAL COURTS**
 International organizations and tribunals, representatives in, see **INTERNATIONAL LAW**
 Public administrators, appointment as, see **EXECUTORS AND ADMINISTRATORS**
 Treaties, negotiation and ratification of, see **TREATIES**

1. Appointment, qualification, and tenure.
2. Compensation.
3. Privileges, immunities, and disabilities.

26. AMBASSADORS AND CONSULS

4. Powers and duties of public ministers.
5. Powers, duties, and liabilities of consular officers, and of commissions, and other bodies appointed by foreign governments.
6. Consular courts.
7. Consular fees.
8. Actions.

27. AMICUS CURIAE

SUBJECTS INCLUDED

Persons, whether attorneys or laymen, who interpose in a judicial proceeding to assist the court by giving information or otherwise, or who conduct an investigation or other proceeding on request or appointment therefor by the court

Their rights, powers, duties, and liabilities

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Assignment of attorneys by the court as counsel, see ATTORNEY AND CLIENT

1. Right to appear and act in general.
2. Compensation.
3. Powers, functions, and proceedings.

28. ANIMALS

SUBJECTS INCLUDED

Animals as the subjects of property or of legal protection or regulation, other than game and fish

Nature and incidents of rights of property in animals, and liabilities for injuries by them; injuries to animals in general

Regulations for the protection of animals from disease, ill treatment, etc., and relating to estrays

Contracts for feeding, care, and use or hire

Offense of cruelty to animals

Livery Stable Keepers

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Conveyances and contracts relating to animals, see SALES, CHATTEL MORTGAGES, BAILMENT, CARRIERS, INSURANCE, and other specific topics

Fence laws, see FENCES

Game, rights of taking and protection of, see GAME

Particular types of negligence causing injuries to animals, see AUTOMOBILES, NEGLIGENCE, RAILROADS, HIGHWAYS, and other specific topics

Protection of wildlife, particularly endangered or threatened species, see ENVIRONMENTAL LAW

1.5. Animals as property; status.

Animals inhabiting the water, see FISH ¶1.

- (1). In general.
- (2). Wild animals in unconfined state, in general.
- (3). Captured, confined or domesticated animals, in general.
- (4). Dogs.
- (5). Horses, cattle, sheep and other livestock.
- (6). Birds and fowl.
- (7). Bees.
- (8). Other particular animals.
- (9). Evidence of ownership.

2.5. Licensing.

- (1). In general.
- (2). Constitutional provisions, statutes and ordinances.
- (3). Licenses, permits and tags.
- (4). Taxes and fees.

3.5. Regulation in general.

- (1). In general.
- (2). Power to regulate in general; pre-emption.
- (3). Constitutional provisions, statutes and ordinances.
- (4). Particular regulations.
- (5). Protective and anti-cruelty regulation in general.
- (6). Laboratory and research animals.

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- (7). Fighting and contests.
- (8). Searches, seizures, inspections and forfeitures.
- (9). Prosecutions and proceedings; review.
- (10). Penalties, punishments and costs.
- (11). Animal welfare societies and agencies.
- 5. Marks and brands.
 - 5.1. — In general.
- 6. — Adoption and use in general.
- 7. — Statutory regulations.
- 8. — Recording.
- 9. — Transfer.
- 10. — Evidence of ownership.
- 11. — Destroying or altering.
- 12. — False marking or branding.
- 13. — Criminal prosecutions.
- 14. Driving from range or pasture, and herding or confining young animals apart from their mothers.
- 15. Regulation of slaughtering.
- 16. Breeding and registration.
 - 16.1. — In general.
- 17. — Statutory regulations.
- 18. — Contracts.
- 19. — Lien.
- 20. — Right to offspring.
- 21. Agistment, keeping, and care.
 - 21.1. — In general.
- 22. — Rights and duties in general.
- 23. — Loss of or injuries to animals.
 - (1). In general.
 - (2). Actions.
- 24. — Injuries by animals.
- 25. — Compensation.
- 26. — Lien.
 - (.5). In general.
 - (1). Existence, nature and incidents.
 - (2). Persons entitled to lien.
 - (3). Persons liable and property subject to lien.
 - (4). Waiver and extinguishment.
 - (5). Enforcement.
- 27. Hire and use.
- 28. Contagious and infectious diseases.
 - 28.1. — In general.
- 29. — Statutory and official regulations in general.
- 30. — Quarantine.
- 31. — Restrictions upon transportation.
- 32. — Destruction of diseased animals.
- 33. — Liabilities for communication of disease.
- 34. — Offenses.
- 35. — Penalties for violations of regulations.
- 36. — Criminal prosecutions.
- 37. — Liabilities of officers, state or municipalities.
- 43. Injuring or killing animals in general.
 - 43.1. — In general.
- 44. — Civil liability.
- 45. — Criminal responsibility.
- 46. Conversion.
- 47. Running at large.
 - 47.1. — In general.
- 48. — Rights and duties of owners.
- 49. — Statutory regulations in general.
- 50. — Stock laws.
 - (1). In general.
 - (2). Adoption of stock laws.
 - (3). Duties of owners.
 - (4). What constitutes running at large.
 - (5). Restraint of animals used for breeding.
- 51. — Impounding animals at large.
- 52. — Killing or injuring animals at large.
- 53. — Injuries by animals at large.
- 54. — Persons liable for injuries.
- 55. — Actions.
- 56. — Penalties for violations of regulations.
- 57. — Criminal prosecutions.
- 58. Estrays.
 - 58.1. — In general.
- 59. — Rights of owners.
- 60. — Statutory regulations.
- 61. — Impounding or taking up.
- 62. — Injuries by stray animals.
- 63. — Actions and other proceedings for damages.
- 64. — Penalties for violations of regulations.
- 65. — Criminal prosecutions.
- 66. Injuries to persons.
 - 66.1. — Duties and liabilities in general.
 - 66.2. — Vicious propensities and knowledge thereof.

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- 66.3. — Defenses in general.
- 66.4. — Persons liable for injuries.
 - (1). In general.
 - (2). Landlords.
- 66.5. — Dogs.
 - (1). Duties and liabilities in general.
 - (2). Vicious propensities and knowledge thereof.
 - (3). Defenses in general.
 - (4). Contributory and comparative negligence.
 - (5). Provocation.
 - (6). Assumption of risk.
 - (7). Persons liable for injuries in general.
 - (8). Landlords.
- 66.6. — Cats.
- 66.7. — Horses and other equines.
- 66.8. — Cattle and other livestock.
- 66.9. — Other particular animals.
- 73. — Killing vicious animals.
- 74. — Actions.
 - (5). In general.
 - (1). Nature of remedy and parties.
 - (2). Pleading.
 - (3). Presumptions and burden of proof.
 - (4). Admissibility of evidence.
 - (5). Weight and sufficiency of evidence.
 - (6). Damages.
 - (7). Instructions.
 - (8). Questions for jury.
 - (9). Verdict and findings.
- 75. — Penalties for violations of regulations.
- 76. — Criminal prosecutions.
- 77. Injuries to other animals.
 - 77.1. — In general.
- 78. — Duties of owners in general.
- 79. — Statutory regulations.
- 80. — Domestic animals in general.
- 81. — Dogs.
- 82. — Knowledge or notice of vicious propensities.
- 83. — Persons liable for injuries.
- 84. — Killing vicious animals.
- 85. — Actions.
- 86. — Penalties for violations of regulations.
- 87. — Criminal prosecutions.
- 88. — Liabilities of state or municipalities.
- 89. Trespassing.
 - 89.1. — In general.
- 90. — Duties of owners.
- 91. — Statutory regulations in general.
- 92. — Fencing and fence laws.
- 93. — What constitutes a trespass.
- 94. — Driving off trespassing animals.
- 95. — Impounding or distraining trespassing animals, and lien for damages.
 - (1). In general.
 - (2). Rights and remedies of owner of animals.
- 96. — Injuring or killing trespassing animals.
- 97. — Liabilities for trespasses in general.
- 98. — Effect of defects in fences.
- 99. — Persons liable for injuries.
- 100. — Actions and other proceedings for damages.
 - (5). In general.
 - (1). Nature and form of remedy.
 - (2). Defenses, time to sue, and limitations.

See also LIMITATION OF ACTIONS.

 - (3). Parties and pleading.
 - (4). Evidence.
 - (5). Notice of distraint.
 - (6). Appraisal of damages.
 - (7). Attachment and execution.
 - (8). Measure and elements of damages.
 - (9). Trial, judgment, and review.
 - (10). Costs.
- 101. — Penalties for violations of regulations.
- 102. — Criminal prosecutions.
- 103. Pounds.
 - 103.1. — In general.
- 104. — Establishment and maintenance.
- 105. — Poundkeepers.
- 106. — Sale of impounded animals.
- 107. — Redemption of impounded animals.
- 108. — Offenses.
- 109. — Penalties.
- 110. — Criminal prosecutions.
- 111. Livery, boarding, and riding stables.
 - 111.1. — In general.

29T. ANTITRUST AND TRADE REGULATION

112. — Hiring of horses and vehicles.
 113. — Penalties and offenses for violation of regulations.

29. ANNUITIES**SUBJECTS INCLUDED**

Sums of money stipulated to be paid yearly or at other fixed intervals, perpetually or during life or a term of years, not reserved out of or charged on realty

Requisites, validity, construction, and operation of annuities and annuity contracts

Regulation of annuities, and of companies, including insurance companies, issuing annuities

Agents in transactions involving annuities, and regulation thereof

Rights, remedies, and civil liabilities with respect to the purchase, sale, and payment of annuities

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Bequests of annuities, see **WILLS**, especially **WILLS** ¶684.2(6)

Distribution of estate, payment of annuities with respect to, see **EXECUTORS AND ADMINISTRATORS** ¶306

Income and estate taxation with respect to annuities, see **INTERNAL REVENUE** ¶3121, 4157 and **TAXATION** ¶3358, 3452

Regulation of securities as affecting annuities, see **SECURITIES REGULATION** ¶5.30, 14.18

Regulation of employee pension plans, with respect to annuities payable thereunder, see **LABOR AND EMPLOYMENT VII**

Rent charges and ground rents, see **ESTATES IN PROPERTY** ¶9, 13

Trust provisions for annuities, see **TRUSTS**, especially **TRUSTS** ¶281

11. In general.
 12. What law governs.
 13. Preemption.

14. Nature, creation, requisites and validity.
 15. — In general.
 16. — Insurance or other arrangements distinguished, in general.
 17. — Particular cases.
 18. Construction and operation, in general.
 19. Duration and termination, in general.
 20. Rescission or avoidance for fraud or mistake.
 21. Modification or conversion.
 22. Payment and satisfaction, in general.
 23. Persons and property chargeable, in general.
 24. Arrears and interest thereon.
 25. Apportionment as to time.
 26. Persons entitled to proceeds; annuitants and beneficiaries.
 27. — In general.
 28. — Change of beneficiary in general.
 29. — Spouses and children; effect of divorce.
 30. Regulation in general.
 31. Fiduciary relationships and duties, in general.
 32. Agents and brokers, in general.
 33. Rights and remedies in general.
 34. Civil liabilities.
 35. — In general; negligence or bad faith.
 36. — Breach of fiduciary duty.
 37. — Fraud or misrepresentation; concealment.

29T. ANTITRUST AND TRADE REGULATION**SUBJECTS INCLUDED**

- Regulation of trade practices generally, including regulation in the interest of maintaining competition
 Unfair competition, whether grounded in statute or the common law
 Statutory unfair trade practices
 Consumer protection statutes and regulations
 Consumer fraud statutes and regulations

29T. ANTITRUST AND TRADE REGULATION

Other statutory regulation of trade practices, intended for the immediate protection of buyers, purchasers, and consumers, in various particular contexts, such as—

Disclosure obligations in the sale of real estate, motor vehicles, and other subjects

Manufactured housing

Warranties and service contracts

Debt collection practices

Consumer product safety

Packers and stockyards, statutory regulation of

Franchises, distributors, and dealerships, statutory regulation of

Federal Trade Commission Act, liabilities and remedies under

Trade secrets and proprietary information

Price regulation not grounded in war or emergency powers

Antitrust statutes and regulations

Combinations in restraint of trade

Monopolization and attempts to monopolize

Mergers and acquisitions

Agencies for the administration of antitrust and trade regulation laws, their powers and proceedings, and judicial review of their decisions or actions

Criminal offenses, prosecutions, and penalties under antitrust and trade regulation laws

**SUBJECTS EXCLUDED AND COVERED
BY OTHER TOPICS**

Bank mergers, see FINANCE, BANKING, AND CREDIT IV(P)

Commerce, promotion and regulation of, see COMMERCE

Consumer credit statutes and regulations, and remedies thereunder, see FINANCE, BANKING, AND CREDIT III, XVI

Consumer Leasing Act, see FINANCE, BANKING, AND CREDIT XVI(D)

Contracts in restraint of trade or commerce as governed by the common law, see CONTRACTS

Covenants not to compete as governed by the common law, see CONTRACTS

Grants of exclusive or special privileges or immunities in respect of any occupation or business, see MONOPOLIES

Injuries from defects in products, remedies for, see PRODUCTS LIABILITY, SALES

Insurance practices, regulation specific to, see INSURANCE

Inventions, patents, and copyrights, exclusive rights under laws relating to, see PATENTS, COPYRIGHTS AND INTELLECTUAL PROPERTY

Licensing, regulations attendant on, see LICENSES

Particular products, regulations specifically relating to trade in, see CONTROLLED SUBSTANCES, FOOD, HEALTH, INTOXICATING LIQUORS, and other specific topics

Particular types of traders, regulation specific to, see BROKERS, FACTORS, HAWKERS AND PEDDLERS

Price regulation grounded in war or emergency powers, see WAR AND NATIONAL EMERGENCY

Retail Installment Sales Acts, see FINANCE, BANKING, AND CREDIT III

Sales and warranties as governed by the common law or the Uniform Commercial Code, see SALES

Telephone Consumer Protection Act, see TELECOMMUNICATIONS

Trademarks, trade names, and trade dress, see TRADEMARKS

Truth in Lending Act, see FINANCE, BANKING, AND CREDIT XVI

Unfair competition and unfair or deceptive trade practices involving trademarks, trade names, or trade dress, see TRADEMARKS

Usury, see USURY

Weights and measures, regulation of, see WEIGHTS AND MEASURES

I. IN GENERAL, ¶1-9.

II. UNFAIR COMPETITION, ¶10-124.

(A) IN GENERAL, ¶10-59.

(B) ACTIONS AND PROCEEDINGS, ¶60-99.

(C) RELIEF, ¶100-124.

III. STATUTORY UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION, ¶125-409.

(A) IN GENERAL, ¶125-159.

(B) PARTICULAR PRACTICES, ¶160-189.

(C) PARTICULAR SUBJECTS AND REGULATIONS, ¶190-249.

29T. ANTITRUST AND TRADE REGULATION

III. STATUTORY UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION—Cont'd

(D) PARTICULAR RELATIONSHIPS, ¶250–279.

(E) ENFORCEMENT AND REMEDIES, ¶280–409.

1. IN GENERAL, ¶280–299.
2. FEDERAL TRADE COMMISSION, ¶300–324.
3. OTHER FEDERAL ADMINISTRATIVE AGENCIES, ¶325–334.
4. STATE AND LOCAL ADMINISTRATIVE AGENCIES, ¶335–349.
5. ACTIONS, ¶350–365.
6. EVIDENCE, ¶366–369.
7. RELIEF, ¶370–409.

IV. TRADE SECRETS AND PROPRIETARY INFORMATION, ¶410–449.

- (A) IN GENERAL, ¶410–425.
- (B) ACTIONS, ¶426–449.

V. PRICE REGULATION, ¶450–519.

- (A) IN GENERAL, ¶450–479.
- (B) ENFORCEMENT AND REMEDIES, ¶480–519.

VI. ANTITRUST REGULATION IN GENERAL, ¶520–609.

- (A) IN GENERAL, ¶520–536.
- (B) CARTELS, COMBINATIONS, CONTRACTS, AND CONSPIRACIES IN GENERAL, ¶537–552.
- (C) MARKET POWER; MARKET SHARE, ¶553–559.
- (D) ILLEGAL RESTRAINTS OR OTHER MISCONDUCT, ¶560–574.
- (E) PARTICULAR INDUSTRIES OR BUSINESSES, ¶575–609.

VII. MONOPOLIZATION, ¶610–709.

- (A) IN GENERAL, ¶610–624.
- (B) CARTELS, COMBINATIONS, CONTRACTS, AND CONSPIRACIES, ¶625–640.

(C) MARKET POWER; MARKET SHARE, ¶641–649.

(D) ILLEGAL RESTRAINTS OR OTHER MISCONDUCT, ¶650–669.

(E) PARTICULAR INDUSTRIES OR BUSINESSES, ¶670–709.

VIII. ATTEMPTS TO MONOPOLIZE, ¶710–756.

(A) IN GENERAL, ¶710–719.

(B) PARTICULAR INDUSTRIES OR BUSINESSES, ¶720–756.

IX. MERGERS AND ACQUISITIONS, ¶757–810.

IX. MERGERS AND ACQUISITIONS

—Cont'd

- (A) IN GENERAL, ¶757–774.
 - (B) PARTICULAR INDUSTRIES OR BUSINESSES, ¶775–810.
- X. ANTITRUST AND PRICES, ¶811–899.
- (A) IN GENERAL, ¶811–820.
 - (B) PRICE FIXING IN GENERAL, ¶821–822.
 - (C) RESALE PRICE MAINTENANCE, ¶823–831.
 - (D) PREDATORY PRICING, ¶832–838.
 - (E) PRICE DISCRIMINATION, ¶839–859.
 - (F) COMMUNICATING PRICE INFORMATION TO COMPETITORS, ¶860–864.
 - (G) PARTICULAR INDUSTRIES OR BUSINESSES, ¶865–899.
- XI. ANTITRUST EXEMPTIONS AND DEFENSES, ¶900–919.
- XII. ANTITRUST LAW AND TRADE AND PROFESSIONAL ASSOCIATIONS, ¶920–924.
- XIII. ANTITRUST LAW AND JOINT VENTURES, ¶925–929.
- XIV. ANTITRUST LAW AND NON-PROFITS, ¶930–934.
- XV. ANTITRUST LAW AND LABOR, ¶935–944.
- XVI. ANTITRUST AND FOREIGN TRADE, ¶945–949.
- XVII. ANTITRUST ACTIONS, PROCEEDINGS, AND ENFORCEMENT, ¶950–1004.
- (A) IN GENERAL, ¶950–957.
 - (B) ACTIONS, ¶958–1004.
- XVIII. PENALTIES AND FINES, ¶1005–1009.
- XIX. OFFENSES AND PROSECUTIONS, ¶1010–1020.

I. IN GENERAL.

1. In general.
2. Protection and regulation in general.
3. Constitutional and statutory provisions in general.
4. What law governs in general.
5. Preemption in general.
6. Practices prohibited or required in general.
7. Administrative regulation in general.
8. Actions and proceedings in general.
9. Industrial recovery acts.

29T. ANTITRUST AND TRADE REGULATION**II. UNFAIR COMPETITION.****(A) IN GENERAL.**

10. In general.
11. Protection and regulation in general.
12. Constitutional and statutory provisions.
13. What law governs.
14. Preemption.
15. Practices prohibited or required in general; elements.
16. — In general; what is unfair competition.
17. — Confusion or deception.
18. — Intent.
19. Representations, assertions, and descriptions in general.
20. Omissions and other failures to act in general; disclosure.
21. Advertising, marketing, and promotion.
22. — In general.
23. — Particular cases.
24. Labeling and packaging.
25. Representations concerning others or their products; disparagement.
26. — In general.
27. — Particular cases.
28. Comparisons; comparative advertising.
29. Origin, representations concerning.
30. Sponsorship, approval, or connection, representations concerning.
31. Creation, distribution, sale, and use of products in general.
32. Imitation, simulation, or resemblance.
33. — In general.
34. — Products and merchandise.
35. — Labeling and packaging.
36. — Design.
37. — Color.
38. — Literary, artistic, or entertainment works.
39. — Other particular subjects of imitation, simulation, or resemblance.
40. Passing off or palming off.
41. — In general.
42. — Reverse passing off or palming off.
43. Misappropriation.
44. Relabeling and repackaging.
45. Repairs; used and reconditioned products.
46. Replacement parts; supplies.

II. UNFAIR COMPETITION.(Cont'd)

47. Substitution of products.
48. Assertion of rights.
49. Practices involving particular relationships.
50. — In general.
51. — Principal and agent.
52. — Employer and employee.
53. — Acquirer and acquiree.
54. Miscellaneous particular practices.
55. Administrative agencies.
- (B) ACTIONS AND PROCEEDINGS.**
60. In general.
61. Nature and form.
62. Exclusive and concurrent remedies.
63. Conditions precedent.
64. Persons protected and entitled to sue.
65. Persons liable.
66. Defenses.
67. — In general.
68. — Discontinuance of method or practice.
69. — Privilege or immunity.
70. Time to sue; limitations.
71. — In general.
72. — Delay in assertion of rights; laches.
73. Parties.
74. Pleading.
75. — In general.
76. — Particular cases.
77. — Defenses; answer and counterclaim.
78. — Issues, proof, and variance.
79. Evidence.
80. — In general.
81. — Presumptions, inferences, and burden of proof.
82. — Admissibility.
83. — Weight and sufficiency.
84. — Consumer data and market research; tests and surveys.
85. Proceedings; trial.
86. — In general.
87. — Questions of law or fact.
88. — Instructions.
89. Verdict, findings, and judgment.

(C) RELIEF.

100. In general.

29T. ANTITRUST AND TRADE REGULATION**II. UNFAIR COMPETITION.**(Cont'd)

- 101. Injunction.
- 102. — In general.
- 103. — Grounds, subjects, and scope of relief.
 - (1). In general.
 - (2). Particular cases.
- 104. — Preliminary or temporary relief, grounds, subjects, and scope.
 - (1). In general.
 - (2). Particular cases.
- 105. — Proceedings to impose; evidence.
- 106. — Continuing, modifying, vacating, or dissolving.
- 107. — Violation; punishment.
- 108. Monetary relief; damages.
- 109. — In general.
- 110. — Grounds and subjects.
 - (1). In general.
 - (2). Particular cases.
- 111. — Measure and amount.
- 112. — Profits.
- 113. — Punitive or exemplary damages.
- 114. — Enhanced damages; double or treble damages.
- 115. Accounting.
- 116. Costs.
- 117. — In general.
- 118. — Attorney fees.
- 119. — Proceedings to impose; evidence.

III. STATUTORY UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION.**(A) IN GENERAL.**

- 125. In general.
- 126. Constitutional and statutory provisions.
- 127. — In general.
- 128. — Purpose and construction in general.
- 129. — Validity.
- 130. — Retroactive operation.
- 131. What law governs; territorial limitations.
- 132. Preemption.
- 133. Nature and elements.
- 134. — In general.
- 135. — Practices prohibited or required.
 - (1). In general; unfairness.
 - (2). Source of prohibition or obligation; lawfulness.

III. STATUTORY UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION.(Cont'd)

- 136. — Fraud; deceit; knowledge and intent.
 - 137. — Confusion.
 - 138. — Reliance; causation; injury, loss, or damage.
 - 139. Persons and transactions covered under general statutes.
 - 140. — In general.
 - 141. — Consumers, purchasers, and buyers; consumer transactions.
 - 142. — Sellers and suppliers.
 - 143. — Businesses in general; competitors and competition.
 - (1). In general.
 - (2). Businesses as consumers.
 - 144. — Subject matter of transaction in general.
 - 145. — Goods or services.
 - 146. — Trade or commerce; business activity.
 - (1). In general.
 - (2). Interstate commerce.
 - (3). International or foreign commerce.
 - 147. — Contractual relationships and breach of contract in general.
 - 148. — Tortious conduct and negligence in general.
 - 149. Number or frequency of transactions or acts.
 - 150. Completion of transaction.
 - 151. Public impact or interest; private or internal transactions.
 - 152. Exemptions and safe harbors.
- (B) PARTICULAR PRACTICES.**
- 160. In general.
 - 161. Representations, assertions, and descriptions in general.
 - 162. Omissions and other failures to act in general; disclosure.
 - 163. Advertising, marketing, and promotion.
 - 164. Labeling and packaging.
 - 165. Representations concerning others or their products; disparagement.
 - 166. Comparisons; comparative advertising.
 - 167. Origin, representations concerning.

29T. ANTITRUST AND TRADE REGULATION**III. STATUTORY UNFAIR TRADE PRACTICES
AND CONSUMER PROTECTION.(Cont'd)**

- 168. Sponsorship, approval, or connection, representations concerning.
- 169. Creation, distribution, sale, and use of products in general.
- 170. Imitation, simulation, or resemblance.
- 171. Passing off or palming off.
- 172. Reverse passing off or palming off.
- 173. Misappropriation.
- 174. Relabeling and repackaging.
- 175. Repairs; used and reconditioned products.
- 176. Replacement parts; supplies.
- 177. Substitution of products.
- 178. Assertion of rights.
- 179. Other particular practices.

(C) PARTICULAR SUBJECTS AND REGULATIONS.

- 190. In general.
- 191. Motor vehicles.
- 192. — In general.
- 193. — Sale.
- 194. — Lease or rental.
- 195. — Service and repair.
- 196. — Odometers and mileage.
- 197. Boats.
- 198. Real property in general.
- 199. Housing sales.
- 200. Housing rentals.
- 201. Mobile homes.
- 202. Manufactured housing.
- 203. Construction, renovation, improvement, and repair.
- 204. Warranties and service contracts.
- 205. — In general.
- 206. — Motor vehicles; “lemon” laws.
- 207. — Mobile homes.
- 208. — Other particular subjects.
- 209. Finance and banking in general; lending.

Consumer credit statutes and regulations, see FINANCE, BANKING, AND CREDIT III, XVI.

210. Debt collection.

Federal and state debt collection practices statutes and regulations, see FINANCE, BANKING, AND CREDIT III(B)4, XVI(I).

218. Credit repair and counseling.

Consumer credit statutes and regulations, see FINANCE, BANKING, AND CREDIT ¶64, XVI(F).

**III. STATUTORY UNFAIR TRADE PRACTICES
AND CONSUMER PROTECTION.(Cont'd)**

- 219. Securities and investments.
- 220. Savings.
Truth in Savings Act and similar disclosure requirements, see FINANCE, BANKING, AND CREDIT IV(I)4.
- 221. Insurance.
- 222. Health care and medical insurance.
- 223. Home solicitation or delivery.
- 224. Telecommunications; telemarketing.
- 225. Clubs; membership contracts.
- 226. Travel services.
- 227. Moving and storage services.
- 228. Social-referral and dating services.
- 229. Funeral and burial services.
- 230. Going-out-of-business sales.
- 231. Pyramid, chain, or referral sale plans.
- 232. Product safety.
- 233. — In general.
- 234. — Motor vehicles.
- 235. — Other particular products.
- 236. Tobacco; cigarettes.
- 237. Packers and stockyards.
- 238. Privacy.
Financial records and privacy, see FINANCE, BANKING, AND CREDIT XVII.
- 239. Other particular subjects and regulations.

(D) PARTICULAR RELATIONSHIPS.

- 250. In general.
- 251. Principal and agent.
- 252. Employer and employee.
- 253. Fiduciaries.
- 254. Professionals.
- 255. — In general.
- 256. — Legal professionals; attorney and client.
- 257. — Medical professionals; doctor and patient.
- 258. — Accountants and tax preparers.
- 259. — Other particular professions.
- 260. Manufacturers, distributors, wholesalers, and retailers in general.
- 261. Licensor and licensee.
- 262. Franchises; distributorships and dealerships.
- 263. — In general.
- 264. — Persons, relationships, and commodities covered.

29T. ANTITRUST AND TRADE REGULATION**III. STATUTORY UNFAIR TRADE PRACTICES
AND CONSUMER PROTECTION.(Cont'd)**

- 265. — Practices prohibited or required in general.
- 266. — Duration, termination, and renewal.
- 267. — Transfer, sale, and assignment.
- 268. — Representations; disclosure obligations.
- 269. — Motor vehicle dealers.
 - (1). In general.
 - (2). Persons, relationships, and commodities covered.
 - (3). Practices prohibited or required in general.
 - (4). Duration, termination, and renewal.
 - (5). Transfer, sale, and assignment.
 - (6). Representations; disclosure obligations.
- 270. — Gasoline or petroleum dealers.
 - (1). In general.
 - (2). Persons, relationships, and commodities covered.
 - (3). Practices prohibited or required in general.
 - (4). Duration, termination, and renewal.
 - (5). Transfer, sale, and assignment.
 - (6). Representations; disclosure obligations.
- 271. Business opportunities; seller-assisted marketing plans.
- 272. Other particular relationships.

(E) ENFORCEMENT AND REMEDIES.**1. IN GENERAL.**

- 280. In general.
- 281. Exclusive and concurrent remedies or laws.
- 282. — In general.
- 283. — Judicial remedies prior to or pending administrative proceedings.
- 284. Conditions precedent in general.
- 285. Exhaustion.
- 286. Notice and demand requirements; opportunity to cure.
- 287. Persons entitled to sue or seek remedy.
- 288. — In general.
- 289. — Public entities or officials.

**III. STATUTORY UNFAIR TRADE PRACTICES
AND CONSUMER PROTECTION.(Cont'd)**

- 290. — Private entities or individuals.
- 291. Persons liable.
- 292. Privity.
- 293. Defenses.
- 294. — In general.
- 295. — Discontinuance of method or practice.
- 296. — Privilege or immunity.
- 297. Waiver of rights or remedies.

2. FEDERAL TRADE COMMISSION.

- 300. In general.
- 301. Officers and employees.
- 302. — In general.
- 303. — Ethical obligations; disqualification.
- 304. Powers, functions, jurisdiction, and authority.
- 305. Rules and rulemaking.
- 306. Investigations and reports.
- 307. Subpoenas; witnesses.
- 308. Proceedings.
- 309. — In general.
- 310. — Parties.
- 311. — Pleadings.
- 312. — Trial or hearing.
- 313. — Administrative review.
- 314. Decisions, determinations, and orders.
- 315. Judicial review.
- 316. — In general.
- 317. — Decisions or acts subject to review.
- 318. — Preservation of questions in administrative proceeding; record.
- 319. — Standard and scope of review.
- 320. — Harmless error.
- 321. — Proceedings; hearing.
- 322. — Determination and disposition.

3. OTHER FEDERAL ADMINISTRATIVE AGENCIES.

- 325. In general.
- 326. Officers and employees.
- 327. Powers, functions, jurisdiction, and authority.
- 328. Rules and rulemaking.
- 329. Investigations and reports.
- 330. Subpoenas; witnesses.
- 331. Proceedings; hearing.

29T. ANTITRUST AND TRADE REGULATION**III. STATUTORY UNFAIR TRADE PRACTICES
AND CONSUMER PROTECTION.(Cont'd)**

332. Decisions, determinations, and orders.

333. Judicial review.

4. STATE AND LOCAL ADMINISTRATIVE AGENCIES.

335. In general.

336. Officers and employees.

337. Powers, functions, jurisdiction, and authority.

338. Rules and rulemaking.

339. Investigations and reports.

340. Subpoenas; witnesses.

341. Proceedings; hearing.

342. Decisions, determinations, and orders.

343. Judicial review.

5. ACTIONS.

350. In general.

351. Nature and form.

352. Time to sue; limitations.

353. — In general.

354. — Delay in assertion of rights; laches.

355. Parties.

356. Pleading.

357. — In general.

358. — Particular cases.

359. — Defenses; answer and counterclaim.

360. — Issues, proof, and variance.

361. Proceedings; trial.

362. — In general.

363. — Questions of law or fact.

364. — Instructions.

365. Verdict, findings, and judgment.

6. EVIDENCE.

366. In general.

367. Presumptions, inferences, and burden of proof.

368. Admissibility.

369. Weight and sufficiency.

7. RELIEF.

370. In general.

371. Administrative relief.

372. — In general.

373. — Cease and desist orders in general.

**III. STATUTORY UNFAIR TRADE PRACTICES
AND CONSUMER PROTECTION.(Cont'd)**

374. — Representations, advertisements, and labels, remedial orders relating to.

375. — Other particular remedial orders.

376. — Definiteness and certainty.

377. — Continuing, modifying, vacating, or dissolving.

378. — Compliance, violation, and enforcement.

(1). In general.

(2). Proceedings to enforce; evidence.

379. Administrative consent orders, settlements, and negotiated resolutions.

380. Injunction.

381. — In general.

382. — Grounds, subjects, and scope of relief.

(1). In general.

(2). Particular cases.

383. — Preliminary or temporary relief, grounds, subjects, and scope.

(1). In general.

(2). Particular cases.

384. — Proceedings to impose; evidence.

385. — Continuing, modifying, vacating, or dissolving.

386. — Violation; punishment.

387. Monetary relief; damages.

388. — In general.

389. — Grounds and subjects.

(1). In general.

(2). Particular cases.

390. — Measure and amount.

391. — Profits.

392. — Punitive or exemplary damages.

393. — Enhanced damages; double or treble damages.

394. Accounting.

395. Costs.

396. — In general.

397. — Attorney fees.

398. — Proceedings to impose; evidence.

399. Other particular remedies or forms of relief.

400. — In general.

401. — Enforceability of contracts; rescission.

402. — Packers and Stockyards Act, remedies and relief under.

29T. ANTITRUST AND TRADE REGULATION**IV. TRADE SECRETS AND PROPRIETARY INFORMATION.****(A) IN GENERAL.**

- 410. In general.
- 411. Constitutional and statutory provisions.
- 412. Purpose and scope of trade secret protection, in general.
- 413. What are "trade secrets" or other protected proprietary information, in general.
- 414. Elements of misappropriation.
- 415. What law governs.
- 416. Federal preemption.
- 417. Necessity that information be secret.
- 418. Confidential relation.
- 419. Vigilance in protecting secret; abandonment or waiver.
- 420. Particular cases, in general.
- 421. Customer lists and information.
- 422. Unfair practices by owner of trade secret.
- 423. Persons liable.
- 424. Persons entitled to sue.
- 425. Injury or harm from use of information.

(B) ACTIONS.

- 426. In general.
- 427. Defenses in general.
- 428. Pleading.
- 429. Evidence.
- 430. — In general.
- 431. — Presumptions and burden of proof.
- 432. — Weight and sufficiency of evidence.
- 433. Questions of law or fact.
- 434. Instructions.
- 435. Relief.
Injunctive relief, see INJUNCTION ⇨1384.
- 436. — In general.
- 437. — Damages.
- 438. Costs and attorney fees.

V. PRICE REGULATION.**(A) IN GENERAL.**

- 450. In general.
- 451. Power to regulate.
- 452. Constitutional and statutory provisions.
- 453. — In general.

V. PRICE REGULATION.(Cont'd)

- 454. — Purpose and construction in general.
- 455. — Validity.
- 456. — Retroactive operation.
- 457. What law governs; territorial limitations.
- 458. Preemption.
- 459. Practices prohibited or required in general.
- 460. Excessively high prices; maximum prices.
- 461. Excessively low prices; minimum prices.
- 462. — In general.
- 463. — Price cutting in general.
- 464. — Sales below cost in general.
- 465. Particular commodities or industries.
- 466. — In general.
- 467. — Motor vehicles.
- 468. — Motor fuel; petroleum and gasoline.
- 469. — Cigarettes and tobacco.
- 470. — Alcoholic beverages.
- 471. — Drugs and medicines.
- 472. — Agricultural products; food and groceries.
- 473. Sales below stipulated prices; "fair trade" laws.
- 474. Discrimination in price, services, or facilities.
- 475. Rebates and discounts.
- 476. Gifts, premiums, trading stamps, contests, and lotteries.
- 477. Representations about prices; advertising and labeling.

(B) ENFORCEMENT AND REMEDIES.

- 480. In general.
- 481. Exclusive and concurrent remedies or laws.
- 482. Conditions precedent.
- 483. Persons entitled to sue or seek remedy.
- 484. Persons liable.
- 485. Defenses.
- 486. Waiver of rights or remedies.
- 487. Administrative agencies.
- 488. — In general.
- 489. — Proceedings and orders.
- 490. — Judicial review and enforcement.
- 491. Actions.

29T. ANTITRUST AND TRADE REGULATION**V. PRICE REGULATION.(Cont'd)**

- 492. — In general.
- 493. — Nature and form.
- 494. — Time to sue; limitations and laches.
- 495. — Parties.
- 496. — Pleading.
- 497. — Proceedings; trial.
- 498. — Verdict, findings, and judgment.
- 499. Evidence.
- 500. — In general.
- 501. — Presumptions, inferences, and burden of proof.
- 502. — Admissibility.
- 503. — Weight and sufficiency.
- 504. Relief.
- 505. — In general.
- 506. — Injunction.
- 507. — Preliminary injunction.
- 508. — Monetary relief; damages.
- 509. — Enhanced or punitive damages.
- 510. — Accounting.
- 511. — Costs and attorney fees.
- 512. — Violation of injunction or other order; contempt.

VI. ANTITRUST REGULATION IN GENERAL.**(A) IN GENERAL.**

- 520. In general.
- 521. Federal and state issues.
- 522. Constitutional and statutory provisions.
- 523. — In general.
- 524. — Construction.
- 525. — Validity.
- 526. — Retroactive application.
- 527. Purpose of antitrust regulation.
- 528. — In general.
- 529. — Protection of competition rather than competitors.
- 530. What law governs.
- 531. Preemption.
- 532. Judicially created tests of legality.
- 533. — In general.
- 534. — Per se.
- 535. — Rule of reason.
- 536. — “Quick look” and other tests.

(B) CARTELS, COMBINATIONS, CONTRACTS, AND CONSPIRACIES IN GENERAL.

- 537. In general.
- 538. Forms of combinations.
- 539. — In general.
- 540. — Horizontal.
- 541. — Vertical.
- 542. Participants.
- 543. — In general.
- 544. — Parent and subsidiary; sister corporations.
- 545. — Officers and directors.
- 546. — Employer/employee.
- 547. — Partners and partnerships.
- 548. — Franchise arrangements.
- 549. Territorial agreements.
- 550. — In general.
- 551. — Vertical.
- 552. — Horizontal.

(C) MARKET POWER; MARKET SHARE.

- 553. In general.
- 554. Elasticity of supply and demand.
- 555. Relevant market.
- 556. — In general.
- 557. — Product market.
- 558. — Geographic market.
- 559. — Entry barriers.

(D) ILLEGAL RESTRAINTS OR OTHER MISCONDUCT.

- 560. In general.
- 561. Predatory conduct.
- 562. Refusals to deal.
- 563. — In general.
- 564. — Exclusive dealing arrangements/agreements/distributorships.
- 565. — Essential facilities.
- 566. — Noncompete agreements.
- 567. Boycotts.
- 568. Tying agreements.
- 569. — In general.
- 570. — Separate or distinct products.
- 571. — Economic power.
- 572. — Barriers to entry.
- 573. Requirements contracts.
- 574. Reciprocal dealing.

(E) PARTICULAR INDUSTRIES OR BUSINESSES.

- 575. In general.

29T. ANTITRUST AND TRADE REGULATION**VI. ANTITRUST REGULATION
IN GENERAL.(Cont'd)**

- 576. Agricultural enterprises.
- 577. Computer and internet.
- 578. Entertainment.
- 579. — In general.
- 580. — Motion picture industry.
- 581. — Concerts and exhibitions.
- 582. Food and beverages; restaurants.
- 583. Insurance.
- 584. Intellectual property.
- 585. — In general.
- 586. — Copyrights.
- 587. — Patents.
 - (1). In general.
 - (2). Licensing.
 - (3). Patent misuse.
- 588. — Trade secrets.
- 589. — Trademarks.
- 590. Investment.
- 591. Leases.
- 592. Manufacturers.
- 593. Medical services.
- 594. Medical supplies and pharmaceuticals.
- 595. Newspapers and other publications.
- 596. Office equipment.
- 597. Oil, gas and mining.
- 598. Regulated industries.
- 599. — In general.
- 600. — Utilities.
- 601. Sports.
- 602. Telecommunications.
- 603. — In general.
- 604. — Television and radio.
- 605. — Telephone.
- 606. Transportation.

VII. MONOPOLIZATION.**(A) IN GENERAL.**

- 610. In general.
- 611. Constitutional and statutory provisions.
- 612. — In general.
- 613. — Construction.
- 614. — Purpose.
- 615. — Validity.
- 616. — Retroactive application.
- 617. What law governs.
- 618. Preemption.
- 619. Elements in general.

VII. MONOPOLIZATION.(Cont'd)

- 620. — In general.
- 621. — Intent.

**(B) CARTELS, COMBINATIONS, CONTRACTS,
AND CONSPIRACIES.**

- 625. In general.
- 626. Forms of combinations.
- 627. — In general.
- 628. — Horizontal.
- 629. — Vertical.
- 630. Participants.
- 631. — In general.
- 632. — Parent and subsidiary; sister corporations.
- 633. — Officers and directors.
- 634. — Employer/employee.
- 635. — Partners and partnerships.
- 636. — Franchise arrangements.
- 637. Territorial agreements.
- 638. — In general.
- 639. — Vertical.
- 640. — Horizontal.

(C) MARKET POWER; MARKET SHARE.

- 641. In general.
- 642. Elasticity of supply and demand.
- 643. Relevant market.
- 644. — In general.
- 645. — Product market.
- 646. — Geographic market.
- 647. — Entry barriers.

**(D) ILLEGAL RESTRAINTS OR
OTHER MISCONDUCT.**

- 650. In general.
- 651. Judicially created tests of legality.
- 652. — In general.
- 653. — Per se.
- 654. — Rule of reason.
- 655. — “Quick look” and other tests.
- 656. Predatory conduct.
- 657. Refusals to deal.
- 658. — In general.
- 659. — Exclusive dealing arrangements/agreements/distributorships.
- 660. — Essential facilities.
- 661. — Noncompete agreements.
- 662. Boycotts.
- 663. Tying agreements.

29T. ANTITRUST AND TRADE REGULATION

VII. MONOPOLIZATION.(Cont'd)

- 664. — In general.
- 665. — Separate or distinct products.
- 666. — Economic power.
- 667. Requirements contracts.
- 668. Reciprocal dealing.

(E) PARTICULAR INDUSTRIES OR BUSINESSES.

- 670. In general.
- 671. Agricultural enterprises.
- 672. Computer and internet.
- 673. Entertainment.
- 674. — In general.
- 675. — Motion picture industry.
- 676. — Concerts and exhibitions.
- 677. Food and beverages; restaurants.
- 678. Insurance.
- 679. Intellectual property.
- 680. — In general.
- 681. — Copyrights.
- 682. — Patents.
- 683. — Trade secrets.
- 684. — Trademarks.
- 685. Investment.
- 686. Leases.
- 687. Manufacturers.
- 688. Medical services.
- 689. Medical supplies and pharmaceuticals.
- 690. Newspapers and other publications.
- 691. Office equipment.
- 692. Oil, gas and mining.
- 693. Regulated industries.
- 694. — In general.
- 695. — Utilities.
- 696. Sports.
- 697. Telecommunications.
- 698. — In general.
- 699. — Television and radio.
- 700. — Telephone.
- 701. Transportation.

VIII. ATTEMPTS TO MONOPOLIZE.

(A) IN GENERAL.

- 710. In general.
- 711. Constitutional and statutory provisions.
- 712. Elements in general.
- 713. — In general.

VIII. ATTEMPTS TO MONOPOLIZE.(Cont'd)

- 714. — Chance of success in the relevant market.
- 715. — Intent.
- 716. Persons potentially liable.
- 717. Elasticity of supply and demand.

(B) PARTICULAR INDUSTRIES OR BUSINESSES.

- 720. In general.
- 721. Agricultural enterprises.
- 722. Computer and internet.
- 723. Entertainment.
- 724. — In general.
- 725. — Motion picture industry.
- 726. — Concerts and exhibitions.
- 727. Food and beverages; restaurants.
- 728. Insurance.
- 729. Intellectual property.
- 730. — In general.
- 731. — Copyrights.
- 732. — Patents.
- 733. — Trade secrets.
- 734. — Trademarks.
- 735. Investment.
- 736. Leases.
- 737. Manufacturers.
- 738. Medical services.
- 739. Medical supplies and pharmaceuticals.
- 740. Newspapers and other publications.
- 741. Office equipment.
- 742. Oil, gas and mining.
- 743. Regulated industries.
- 744. — In general.
- 745. — Utilities.
- 746. Sports.
- 747. Telecommunications.
- 748. — In general.
- 749. — Television and radio.
- 750. — Telephone.
- 751. Transportation.

IX. MERGERS AND ACQUISITIONS.

(A) IN GENERAL.

- 757. In general.
- 758. Constitutional and statutory provisions.
- 759. — In general.
- 760. — Construction.
- 761. — Validity.

29T. ANTITRUST AND TRADE REGULATION**IX. MERGERS AND ACQUISITIONS.(Cont'd)**

- 762. — Retroactive application.
- 763. Preemption.
- 764. What law governs.
- 765. Relevant market in general.
- 766. Geographical market; section of country.
- 767. Product market; line of commerce.
- 768. Types and forms.
- 769. — In general.
- 770. — Vertical.
- 771. — Horizontal.
- 772. — Conglomerate.
- 773. Interlocking directorates.

(B) PARTICULAR INDUSTRIES OR BUSINESSES.

- 775. In general.
- 776. Agricultural enterprises.
- 777. Computer and internet.
- 778. Entertainment.
- 779. — In general.
- 780. — Motion picture industry.
- 781. — Concerts and exhibitions.
- 782. Food and beverages; restaurants.
- 783. Insurance.
- 784. Intellectual property.
- 785. — In general.
- 786. — Copyrights.
- 787. — Patents.
- 788. — Trade secrets.
- 789. — Trademarks.
- 790. Investment.
- 791. Leases.
- 792. Manufacturers.
- 793. Medical services.
- 794. Medical supplies and pharmaceuticals.
- 795. Newspapers and other publications.
- 796. Office equipment.
- 797. Oil, gas, and mining.
- 798. Regulated industries.
- 799. — In general.
- 800. — Utilities.
- 801. Telecommunications.
- 802. — In general.
- 803. — Television and radio.
- 804. — Telephone.
- 805. Sports.
- 806. Transportation.

X. ANTITRUST AND PRICES.**(A) IN GENERAL.**

- 811. In general.
- 812. Constitutional and statutory provisions.
- 813. — In general.
- 814. — Purpose and construction in general.
- 815. — Validity.
- 816. — Retroactive application.
- 817. What law governs.
- 818. Preemption.
- 819. Price cutting and sales below cost in general.
- 820. Motive, intent, purpose.

(B) PRICE FIXING IN GENERAL.

- 821. In general.
- 822. Horizontal arrangements.

(C) RESALE PRICE MAINTENANCE.

- 823. In general.
- 824. Per se illegality.
- 825. Agreements.
- 826. — In general.
- 827. — Unilateral acts and implied agreements.
- 828. Maximum retail price maintenance.
- 829. Exceptions.
- 830. — In general.
- 831. — Consignments.

(D) PREDATORY PRICING.

- 832. In general.
- 833. Cost determination; marginal or average variable cost.
- 834. Intent.
- 835. Probability of success.
- 836. — In general.
- 837. — Barriers to entry.
- 838. — Recoupment.

(E) PRICE DISCRIMINATION.

- 839. In general.
- 840. Primary line violations.
- 841. Secondary line violations.
- 842. Differential pricing.
- 843. — In general.
- 844. — Direct.
- 845. — Indirect.

29T. ANTITRUST AND TRADE REGULATION**X. ANTITRUST AND PRICES.(Cont'd)**

- 846. Intent.
- 847. Effect on competition; competitive injury.
- 848. Commerce requirement.
- 849. Sales of commodities.
- 850. Like grade or quality.
- 851. Buyers' violations.
- 852. Commissions and other compensation to buyers; rebates, volume discounts.

(F) COMMUNICATING PRICE INFORMATION TO COMPETITORS.

- 860. In general.
- 861. Exchange of price information.
- 862. Price posting.

(G) PARTICULAR INDUSTRIES OR BUSINESSES.

- 865. In general.
- 866. Agricultural enterprises.
- 867. Computer and internet.
- 868. Entertainment.
- 869. — In general.
- 870. — Motion picture industry.
- 871. — Concerts and exhibitions.
- 872. Food and beverages; restaurants.
- 873. Insurance.
- 874. Intellectual property.
- 875. — In general.
- 876. — Copyrights.
- 877. — Patents.
- 878. — Trade secrets.
- 879. — Trademarks.
- 880. Investment.
- 881. Leases.
- 882. Manufacturers.
- 883. Medical services.
- 884. Medical supplies and pharmaceuticals.
- 885. Newspapers and other publications.
- 886. Office equipment.
- 887. Oil, gas and mining.
- 888. Regulated industries.
- 889. — In general.
- 890. — Utilities.
- 891. Sports.
- 892. Telecommunications.
- 893. — In general.
- 894. — Television and radio.

X. ANTITRUST AND PRICES.(Cont'd)

- 895. — Telephone.
- 896. Transportation.

XI. ANTITRUST EXEMPTIONS AND DEFENSES.

- 900. In general.
- 901. State action.
- 902. — In general.
- 903. — Political subdivisions; municipalities.
- 904. — Private parties.
- 905. Efforts to influence government action.
 - (1). In general.
 - (2). Petitioning government.
 - (3). Litigation; sham litigation.
- 906. Regulatory agencies; regulated industries.
- 907. Defenses.
- 908. — In general.
- 909. — Market concentration.
- 910. — Failing company doctrine.
- 911. — Barriers to entry.
- 912. — Potential entrant doctrine.
- 913. — Price discrimination.

XII. ANTITRUST LAW AND TRADE AND PROFESSIONAL ASSOCIATIONS.

- 920. In general.
- 921. Agricultural cooperatives.

XIII. ANTITRUST LAW AND JOINT VENTURES.

- 925. In general.
- 926. Intellectual property.

XIV. ANTITRUST LAW AND NON-PROFITS.

- 930. In general.

XV. ANTITRUST LAW AND LABOR.

- 935. In general.
- 936. Statutory exemptions in general.
- 937. Non-statutory exemptions in general.
- 938. Unions; employee organizations.
- 939. Collective bargaining agreements.
- 940. Collective action.
- 941. Employers and employer associations.

29T. ANTITRUST AND TRADE REGULATION**XVI. ANTITRUST AND FOREIGN TRADE.**

945. In general.

XVII. ANTITRUST ACTIONS, PROCEEDINGS, AND ENFORCEMENT.**(A) IN GENERAL.**

950. In general.

951. Administrative proceedings and investigations in general.

952. Persons entitled to seek administrative enforcement.

953. Administrative subpoena.

954. Civil investigative demand.

955. Cease and desist orders.

(B) ACTIONS.

958. In general.

959. Right of action; persons entitled to sue; standing; parties.

960. — In general.

961. — Interstate or foreign nature of transaction.

962. — Conditions precedent.

963. — Injury to business or property.

(1). In general.

(2). Causation.

(3). Particular cases.

964. — Competitors.

965. — Consumers.

966. — Corporations, shareholders, and officers.

967. — Indirect purchasers.

968. — Persons liable.

969. Jurisdiction and venue.

(1). In general.

(2). Personal jurisdiction.

(3). Venue.

970. Limitation of actions; time to sue.

971. Process.

972. Pleading.

(1). In general.

(2). Complaint.

(3). — In general.

(4). — Conspiracy or combination.

(5). — Injury to business or property.

(6). Demurrer and motions in general.

(7). Bill of particulars; more definite statement.

XVII. ANTITRUST ACTIONS, PROCEEDINGS, AND ENFORCEMENT.(Cont'd)

(8). Issues, proof, and variance.

973. Evidence.

974. — In general.

975. — Admissibility.

976. — Presumptions and burden of proof.

977. — Weight and sufficiency.

(1). In general.

(2). Restraints and misconduct in general.

(3). Monopolization or attempt to monopolize.

(4). Mergers and acquisitions.

(5). Pricing.

978. Trial, hearing and determination.

979. — In general.

980. — Questions of law and fact.

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982. Damages and other relief.

983. — In general.

984. — Certainty.

985. — Particular items or elements.

986. — Punitive damages.

987. — Treble damages.

988. Costs and attorney fees.

989. — In general.

990. — Amount of fees.

991. — Costs.

992. Contribution among co-conspirators.

993. Forfeiture and seizure of property; divestiture.

994. Injunction.

995. — In general.

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1005. In general.

XIX. OFFENSES AND PROSECUTIONS.

1010. In general.

1011. Constitutional and statutory provisions.

1012. Offenses.

1013. — In general.

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29T. ANTITRUST AND TRADE REGULATION**XIX. OFFENSES AND PROSECUTIONS.**(Cont'd)

1019. — Trial.

1020. — Sentence.

30. APPEAL AND ERROR**SUBJECTS INCLUDED**

Review by superior tribunals of judicial action of inferior tribunals in general, and, more particularly, such review of decisions of courts of record in civil actions, by removal of the cause to the higher court by appeal or writ of error, or by hearing on a case made and reported or certified by the lower court, or on exceptions taken in the lower court

Nature and scope of the remedy and of appellate jurisdiction in general

Proceedings in the trial court to make objections to its action available on appeal, writ of error, etc.

Proceedings to take and perfect appeals, sue out writs of error, etc., and effect thereof and of supersedeas or stay pending appeal, error, etc.

Removal of cause, record, etc., to higher court

Hearing and determination of appeals, writs of error, exceptions, etc., effect of decisions thereon, and proceedings on such decisions

Liabilities on and enforcement of securities given to perfect appeal or to obtain supersedeas, stay, etc.

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Admiralty, appeals in, see ADMIRALTY

Bills of exceptions, making and filing, see EXCEPTIONS, BILL OF

Civil proceedings other than actions, review of decisions in, see CERTIORARI, HABEAS CORPUS, MANDAMUS, and other specific topics

Costs on appeal, writ of error, etc., and damages for frivolous or vexatious appeals, etc., see COSTS

Criminal prosecutions, review of proceedings in, see CRIMINAL LAW

Federal appellate courts, jurisdiction and procedure, see FEDERAL COURTS

Insolvent acts or bankruptcy acts, appeals and supervision of proceedings under, see BANKRUPTCY, CREDITORS' REMEDIES ¶1183

Judgments, opening and vacating and correcting errors in on motion, writ of error coram nobis, or other proceeding in court in which they were rendered, see JUDGMENT

Justices of the peace, appeals from decisions of, see JUSTICES OF THE PEACE

Juvenile delinquency and youthful offenders, see INFANTS

New trials, applications to trial courts for, see NEW TRIAL

Particular courts, appellate jurisdiction of and proceedings for removing, reporting, certifying, etc., causes or questions from and to, see COURTS

Particular forms of relief, review of decisions in actions for, see DECLARATORY JUDGMENT, DIVORCE, and other specific topics

Rehearing and bills of review in suits in equity, see EQUITY

Review of judgments not subjects of appeal or writ of error, etc., or for causes arising subsequently to the decision or otherwise not grounds of appeal, etc., see CERTIORARI, REVIEW, AUDITA QUERELA

Support and custody of children, see CHILD SUPPORT and CHILD CUSTODY

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30. APPEAL AND ERROR

III. DECISIONS REVIEWABLE—Cont'd

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XVII. HARMLESS AND REVERSIBLE ERROR—Cont'd

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1. IN GENERAL, ⚖️4791-4800.
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XIX. LIABILITIES ON BONDS AND UNDERTAKINGS, ⚖️4851-4875.

I. NATURE AND FORM OF REMEDY.

1. Origin, nature, and scope of remedies in general.

I. NATURE AND FORM OF REMEDY.(Cont'd)

2. Statutory provisions and remedies.
3. Proper mode of review.
 - 3.1. — In general.
4. — Appeal.
5. — Writ of error; restricted appeal.
6. — Exceptions.
7. — Writ of supersedeas.
8. — Reservation or certification of cases or questions.
9. Existence of other remedy in lower court.
10. Existence of other remedy for review.
11. Right to different remedies in same case.
12. Election between remedies.
13. Pendency of another proceeding.
14. Successive appeals and cross-appeals or other proceedings.
 - (.5). In general.
 - (1). Dismissal, abandonment, or withdrawal of first proceeding.
 - (2). Determination of first proceeding.
 - (3). Different parties to proceeding.
 - (4). Cross-appeals or writs of error.
15. Joinder of proceedings, and double appeals or other proceedings.
16. Separate appeals in related causes.

II. NATURE AND GROUNDS OF APPELLATE JURISDICTION.

17. Nature and source.
18. Grounds and extent in general.
19. Existence of actual controversy.
20. Jurisdiction of lower court.
21. Consent of parties.
22. Waiver of objections.
23. Determination of questions of jurisdiction in general.

III. DECISIONS REVIEWABLE.

(A) COURTS AND OTHER TRIBUNALS SUBJECT TO REVIEW.

24. Judicial character of tribunal.
25. Courts of original jurisdiction in general.
30. Judges and judicial officers.
31. Special tribunals, boards, and officers exercising judicial functions.
32. Intermediate courts.

30. APPEAL AND ERROR**(B) NATURE OF SUBJECT-MATTER AND CHARACTER OF PARTIES.**

- 33. Constitutional questions in general.
- 34. Validity and construction of statutes or ordinances.
- 35. Franchises and matters of public interest.
- 36. Revenue.
- 37. States, political divisions, or officers as parties.
- 38. Title to real property.
- 40. Probate cases, and claims against decedents' estates.
- 41. Nature or form of action or proceeding.
 - (1). In general.
 - (2). Suits in equity in general.
 - (3). Injunction and receiver.
 - (4). Actions triable by jury.
 - (5). Civil or criminal.
- 42. Important or doubtful questions.
- 43. Cases in intermediate courts.
- 44. Cases originating in inferior courts.

(C) AMOUNT OR VALUE IN CONTROVERSY.

- 45. Cases subject to pecuniary limitations.
- 46. Requisite amount or value.
- 47. Amount claimed.
 - (1). In general.
 - (2). Amount claimed or value of property.
 - (3). Amount claimed or amount recovered.
- 48. Value of property or right claimed.
- 49. Amount or value actually involved.
- 50. — In general.
 - (1). In general.
 - (2). Extent of appellant's interest.
- 51. — Effect of set-off or counterclaim.
- 52. — Appeal as to part of subject-matter.
- 53. — Determination of amount.
- 54. Interest accrued.
- 55. Amount or value of recovery.
- 56. — In general.
- 57. — Effect of counterclaim.
- 58. — Interest on recovery.
- 59. — Costs and attorney fees.
- 60. — Collateral effect of judgment.
- 61. Aggregated claims, interests, or judgments.
- 62. Reduction by amendment or remission.

III. DECISIONS REVIEWABLE. (Cont'd)

- 63. Reduction by payment or other satisfaction.
- 64. Cases in intermediate courts.
- 65. Cases originating in inferior courts.

(D) FINALITY OF DETERMINATION.

- 66. Necessity of final determination.
- 67. Interlocutory and intermediate decisions.
- 68. — In general.
- 69. — Nature or form of action or proceeding.
 - (1). In general.
 - (2). Probate cases.
 - (3). Partition proceedings.
 - (4). Condemnation proceedings.
- 70. — Nature and scope of decision.
 - (5). In general.
 - (1). Relating to parties or process.
 - (2). On demurrer or exceptions.
 - (3). On motions relating to pleadings.
 - (4). Relating to witnesses, depositions, evidence, or discovery.
 - (5). On motion for dismissal or non-suit.
 - (6). Relating to time, place, or conduct of trial.
 - (7). Relating to reference of cause.
 - (8). On motion for judgment.
 - (9). On motion for new trial.
- 71. — Affecting provisional remedies.
 - (5). In general.
 - (1). Sequestration.
 - (2). Attachment and garnishment.
 - (3). Injunction.
 - (4). Receiver.
 - (5). Replevin.
 - (6). Arrest and bail.
- 72. — Affecting collateral matters and proceedings.
- 73. — Appealable judgments and orders.
 - (1). In general.
 - (2). Causing irreparable injury.
- 74. — Effect of right to review on appeal from final judgment.
- 75. Final judgments or decrees.
- 76. — In general.
 - (1). In general.
 - (2). Necessity of entry of judgment.

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III. DECISIONS REVIEWABLE.(Cont'd)

- (3). Pendency of motion for new trial.
- 77. — Nature or form of action or proceeding.
 - (1). In general.
 - (2). Probate proceedings.
- 78. — Nature and scope of decision.
 - (1). In general.
 - (2). Relating to parties and process.
 - (3). Rulings on demurrer or motion relating to pleadings.
 - (4). Judgment of dismissal or nonsuit.
 - (5). Relating to reference of cause.
 - (6). On motion for new trial or in arrest of judgment.
 - (7). Relating to costs.
- 79. — Finality as to all parties:
 - (1). In general.
 - (2). Dismissal of one or more parties.
- 80. — Determination of controversy.
 - (1). In general.
 - (2). Conditional judgment.
 - (3). Necessity for further action or order in general.
 - (4). Necessity for accounting or inquest of damages.
 - (5). Judgment ordering sale of property in general.
 - (6). Determination of part of controversy.
- 81. — Collateral matters and proceedings.
- 82. Orders after judgment.
 - (1). In general.
 - (2). Amendment of judgment.
 - (3). Opening or vacating judgment.
 - (4). Relating to costs.
 - (5). Relating to execution or judicial sale.
- 83. Final orders in special proceedings.
- 84. Decisions of intermediate courts.
 - (1). In general.
 - (2). Affirmance of order or judgment.
 - (3). Reversal of order or judgment.
 - (4). Remand with directions.
 - (5). Final orders in special proceedings.

(E) NATURE, SCOPE, AND EFFECT OF DECISION.

- 85. Judicial nature of decision.

III. DECISIONS REVIEWABLE.(Cont'd)

- 86. Discretionary action.
 - 86.1. — In general.
- 87. — Matters resting in discretion.
 - (.5). In general.
 - (1). Setting off judgments.
 - (2). Orders in probate.
 - (3). Relating to parties and pleading.
 - (4). Relating to provisional remedies, dismissal and nonsuit.
 - (5). Relating to place, time, or conduct of trial, and to discovery and reference.
 - (6). On motion for new trial or rehearing.
 - (7). Opening or vacating judgment or order.
 - (8). Relating to execution or judicial sale.
 - (9). Proceedings for review.
 - (10). Relating to costs.
- 88. — Refusal to exercise discretion.
- 89. — Abuse of discretion.
- 90. Involving merits.
- 91. Affecting substantial rights.
 - (1). In general.
 - (2). Orders relating to assignments.
 - (3). Orders in special proceedings.
 - (4). Orders on summary application after judgment.
 - (5). Relating to provisional remedies.
 - (6). On motion relating to parties, process, or pleadings.
 - (7). Relating to time, place, or conduct of trial.
 - (8). Amending, opening, or vacating judgment or order.
 - (9). Relating to execution or judicial sale.
 - (10). In proceedings for review.
 - (11). Relating to costs.
- 92. Adjudicating principles of cause.
- 93. Determining action and preventing judgment.
- 94. Assuming or refusing jurisdiction.
- 95. Relating to parties or process.
- 96. Relating to provisional remedies.
- 97. — In general.
- 98. — Arrest and bail.
- 99. — Attachment and garnishment.

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III. DECISIONS REVIEWABLE.(Cont'd)

- 100. — Injunction.
 - (1). In general.
 - (2). Continuing, modifying, vacating, or dissolving.
 - (3). Violation of injunction.
- 101. — Receiver.
 - (1). In general.
 - (2). Decisions in receivership proceedings.
- 102. On demurrer.
- 103. On motion relating to pleadings.
- 104. Relating to witnesses, depositions, affidavits or discovery.
- 105. Dismissal, nonsuit, or direction of verdict.
- 106. Relating to place, time, or conduct of trial.
- 107. Relating to reference of cause.
- 108. Relating to verdict or findings.
- 109. On motion for judgment notwithstanding verdict.
- 110. On motion for new trial.
- 111. Partial judgment or decision.
- 112. Void judgment or order.
- 113. Opening or vacating judgment or order.
 - (1). In general.
 - (2). Appealability of original judgment or order.
 - (3). Judgment by default or decree pro confesso.
 - (4). Judgment or order of dismissal or nonsuit.
 - (5). Amendment of judgment or order.
- 114. Confirming or carrying out or enforcing previous decision.
- 115. Relating to execution or judicial sale.
- 116. In proceedings supplementary to execution.
- 117. In proceedings for review.
- 118. In proceedings after decision of appellate court.
- 119. Relating to costs.
- 120. Decisions of intermediate courts.
 - (.5). In general.
 - (1). Nature and scope of decision of trial court.
 - (2). Decisions on appeal in general.
 - (3). Discretionary action.

III. DECISIONS REVIEWABLE.(Cont'd)

- (4). Involving merits.
- (5). Affecting substantial rights.
- (6). Determining action and preventing judgment.
- (7). In proceedings for transfer of cause.
- (8). Questions of law or fact.
- (9). Dismissal, affirmance, or reversal.
- 122. Proceedings for review of part of judgment or order.
- (F) MODE OF RENDITION, FORM, AND ENTRY OF JUDGMENT OR ORDER.
- 123. Necessity of formal judgment or order.
- 124. By confession.
- 125. On consent, offer, or admission.
- 126. On submission of controversy or agreed case.
- 127. By default.
- 128. On ex parte proceeding.
- 129. On motion or summary proceeding.
- 130. On trial of issues.
- 131. On proceedings at chambers or in vacation.
- 132. Pro forma judgment or order.
- 133. Order for judgment.
- 134. Entry of judgment or order.
 - (.5). In general.
 - (1). Necessity.
 - (2). Sufficiency.
- 135. Findings and conclusions of intermediate courts.

IV. RIGHT OF REVIEW.

(A) PERSONS ENTITLED.

- 136. Nature and grounds of right.
- 137. Parties of record.
- 138. — In general.
- 139. — Nominal and unnecessary parties.
- 140. — Parties not served with process.
- 141. — Representative or official capacity.
- 142. — States, political divisions, boards, or officers.
- 143. — Interveners and claimants.
- 144. — Effect of dismissal as to parties.
- 145. — Separate appeals by different parties.
- 146. — Appeals between coparties.

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IV. RIGHT OF REVIEW.(Cont'd)

- 147. Privity with parties.
- 148. Persons other than parties or privies.
- 149. Interveners for purpose of appeal.
- 150. Interest in subject-matter.
 - (1). In general.
 - (2). Transfer or devolution of interest.
 - (3). Representative or official capacity.
 - (4). Political divisions and officers.
 - (5). Garnishees.
 - (6). Creditors and sureties.
- 151. Parties or persons injured or aggrieved.
 - (1). In general.
 - (2). Who are "aggrieved" in general.
 - (3). Representative or official capacity.
 - (4). Political divisions, boards, or officers.
 - (5). Prevailing parties.
 - (6). Parties or persons aggrieved by judgments against others.
- 152. Decisions of intermediate courts.
 - (B) ESTOPPEL, WAIVER, OR AGREEMENTS AFFECTING RIGHT.
- 153. Inconsistent position or action in general.
- 154. Recognition of or acquiescence in decision.
 - (5). In general.
 - (1). What constitutes recognition or acquiescence in general.
 - (2). Pleading over or amendment of pleadings.
 - (3). Proceeding with trial or submission to new trial.
 - (4). Consent to judgment or order.
 - (5). Pleading judgment in bar.
- 155. Entry by appellant of judgment or order.
- 156. Compliance with judgment or order.
- 157. — In general.
- 158. — Payment of or on judgment.
 - (1). In general.
 - (2). Involuntary payment or protest.
- 159. — Payment of costs.
- 160. Acceptance of benefits.
- 161. — In general.
- 162. — Payment of or on judgment.
 - (1). In general.
 - (2). Separate judgments or parts of judgment.

IV. RIGHT OF REVIEW.(Cont'd)

- (3). Acceptance of sum absolutely due or admitted to be due.
- 163. — Payment of costs.
- 164. — Enforcement of judgment or order.
- 165. Pursuing other remedy.
- 166. Release of errors.
- 167. Agreements and stipulations.
- 168. Waiver of objections to right of appeal.

V. PRESENTATION AND RESERVATION IN LOWER COURT OF GROUNDS OF REVIEW.

(A) ISSUES AND QUESTIONS IN LOWER COURT.

- 169. Necessity of presentation in general.
- 170. Nature or subject-matter of issues or questions.
 - (1). In general.
 - (2). Constitutional questions.
- 171. Nature and theory of cause.
 - (1). In general; adhering to theory pursued below.
 - (2). Nature or form of remedy.
 - (3). Adhering to pleadings as construed below.
- 172. Grounds of action or relief.
 - (1). In general; asserting new or inconsistent grounds.
 - (2). Different acts of negligence.
 - (3). Relief not asked below.
- 173. Grounds of defense or opposition.
 - (1). In general; asserting new defense or grounds of opposition.
 - (2). Nature or subject-matter in general.
 - (3). Asserting inconsistent ground of defense.
 - (4). Asserting conditions precedent to bringing suit.
 - (5). Raising objections to plaintiff's right or title.
 - (6). Asserting invalidity of contract or other instrument.
 - (7). Authority of agent.
 - (9). Ratification, estoppel, waiver, and res judicata.
 - (10). Time of bringing suit, limitations, and laches.

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V. PRESENTATION AND RESERVATION IN LOWER COURT OF GROUNDS OF REVIEW.(Cont'd)

- (11). Objections to or defense of set-off.
- (12). Asserting rescission, discharge, settlement, or payment.
- (13). Actions for personal injuries.
- (14). Actions on insurance policies.
- (16). Actions on building contracts and to enforce mechanics' liens.
- 174. Capacity or right to sue or defend.
- 175. Scope of issues or questions.
- 176. Facts admitted or conceded in lower court.
- 177. Incidental and collateral matters.
- 179. Sufficiency of presentation of questions.
 - (1). In general.
 - (2). Failure to offer evidence.
 - (3). Matters not submitted to jury and failure to ask instructions.
 - (4). Constitutional questions.

(B) OBJECTIONS AND MOTIONS, AND RULINGS THEREON.

- 181. Necessity of objections in general.
- 182. Nature or form of remedy.
- 183. — In general.
- 184. — Remedy at law or in equity.
- 185. Organization and jurisdiction of lower court.
 - (1). In general.
 - (2). Jurisdictional amount.
 - (3). Disqualification of judge.
- 186. Venue.
- 187. Parties.
 - (1). In general.
 - (2). Misjoinder of parties.
 - (3). Nonjoinder of parties.
 - (4). New parties and change of parties.
- 188. Process and notice.
- 189. Motions and other incidental and collateral proceedings.
 - (1). In general.
 - (2). Objections as to affidavits and bonds.
 - (3). Dismissal or nonsuit and striking from docket.

V. PRESENTATION AND RESERVATION IN LOWER COURT OF GROUNDS OF REVIEW.(Cont'd)

- (4). Discontinuance as to deceased party and revivor.
- (5). Continuance.
- 190. Proceedings relating to provisional remedies.
 - (5). In general.
 - (1). Attachment, garnishment, and sequestration.
 - (2). Injunction.
 - (3). Receivers.
- 191. Pleading.
- 192. — In general.
 - 192.1. — Objections to sufficiency.
 - 192.2. — Signature, verification, and filing.
 - 192.4. — Bill of particulars.
- 193. — Objections to declaration, complaint, or petition.
 - (1). In general.
 - (2). Misjoinder and splitting of causes.
 - (4). Sufficiency of particular allegations.
 - (5). Omission of averments.
 - (6). Certainty, definiteness, and particularity.
 - (7). Description of property.
 - (9). Failure to state cause of action.
- 194. — Objections to plea or answer, or to subsequent pleadings.
 - (1). In general.
 - (2). Denials.
 - (3). Admissions by answer or failure to answer.
 - (4). Set-off, counterclaim, and cross-complaint.
 - (5). Replication or reply.
 - (6). Demurrer or exception and rulings thereon.
- 195. — Amendments and supplemental pleadings.
- 196. — Motions.
- 197. — Issues, proof, and variance.
 - (1). In general.
 - (2). Scope of issues in general.
 - (3). Variance between declaration and proof in general.
 - (6). Damages.

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V. PRESENTATION AND RESERVATION IN LOWER COURT OF GROUNDS OF REVIEW.(Cont'd)

- (7). Variance between answer and proof.
- 198. Reference of cause or question.
- 199. Proceedings preliminary to trial or hearing.
- 200. Qualifications and selection, impaneling and oath of jurors.
- 201. Mode and conduct of trial or hearing.
 - (1). In general.
 - (2). Remarks and conduct of judge.
- 202. Evidence and witnesses.
- 203. — In general.
- 203.1. — Burden of proof.
- 203.2. — Depositions.
- 203.3. — Competency of witnesses.
- 203.4. — Impeachment.
- 204. — Admission of evidence.
 - (1). In general.
 - (2). Nature of evidence in general.
 - (3). Secondary and parol evidence.
 - (4). Documents in general.
 - (5). Deeds, accounts, and letters.
 - (6). Ordinances.
 - (7). Opinion evidence and hypothetical questions.
- 205. — Exclusion of evidence.
- 206. — Reception of evidence.
- 206.2. — Examination of witnesses.
- 207. Arguments and conduct of counsel.
- 208. Sufficiency of evidence.
- 209. — In general.
- 209.1. — Necessity of objection.
- 209.2. — Want of proof of specific facts.
- 209.3. — Competency of evidence.
- 210. — Taking case or question from jury in general.
- 211. — Dismissal or nonsuit.
- 212. — Direction of verdict.
- 213. Submission of case or question to jury.
- 214. Instructions.
- 214.1. — In general.
- 215. — Objections in general.
 - (.5). In general.
 - (1). Necessity of objection in general.
 - (2). Instructions referring to evidence and matters of fact.

V. PRESENTATION AND RESERVATION IN LOWER COURT OF GROUNDS OF REVIEW.(Cont'd)

- (3). Applicability to pleadings and evidence.
- (4). Instructions assuming facts or on weight of evidence.
- 216. — Requests and failure to give instructions.
 - (1). In general.
 - (2). Further or more specific instructions.
 - (3). Correcting erroneous instructions.
 - (4). Requesting erroneous instruction.
 - (5). Compliance with or refusal of requests.
 - (6). Objection to refusal of requested charge.
 - (7). Sufficiency of requests and questions raised.
- 217. Custody and conduct of jury.
- 218. Verdict and findings by jury.
- 218.1. — In general; general verdict.
- 218.2. — Special interrogatories and findings.
 - (1). In general.
 - (2). Nature of error or defect.
 - (3). Nature of interrogatory or finding.
 - (3.1). — In general.
 - (4). — Negligence.
 - (5). Requests and failure to submit interrogatories or issues.
 - (5.1). — In general.
 - (6). — Further or more specific interrogatories or findings.
 - (7). — Nature of interrogatories or issues.
 - (8). — Correcting erroneous interrogatories or issues.
 - (9). — Objection to refusal of requested interrogatory or issue.
 - (10). — Sufficiency of requests.
- 219. Trial, decision, and findings by court.
 - (.5). In general.
 - (1). Hearing and determination of cause.
 - (2). Findings of fact and conclusions of law.
- 220. Hearing, findings, and report by referee, commissioner, or auditor.

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V. PRESENTATION AND RESERVATION IN LOWER COURT OF GROUNDS OF REVIEW.(Cont'd)

- 221. Amount of recovery or extent of relief.
- 222. Motion in arrest or for new trial or rehearing.
- 223. Judgment.
- 224. Vacation or modification of judgment.
- 225. Execution and enforcement of judgment.
- 226. Costs.
 - (1). In general.
 - (2). Fees.
- 227. Proceedings for review.
- 228. Objections to appeal to intermediate court.
- 230. Necessity of timely objection.
- 231. Necessity of specific objection.
 - (1). In general.
 - (2). Objections to pleadings and variance.
 - (3). Objections to evidence in general.
 - (4). Depositions.
 - (5). Nature of evidence in general.
 - (6). Opinion evidence and hypothetical questions.
 - (7). Reception of evidence, and competency and examination of witnesses.
 - (8). Sufficiency of evidence.
 - (9). Instructions.
- 232. Scope and effect of objection.
 - (5). In general.
 - (1). Objections to pleading.
 - (2). Objections to evidence and witnesses.
 - (3). Instructions.
- 233. Mode of making objection in general.
 - (1). In general.
 - (2). Repetition of objections.
- 234. Necessity of motion presenting objection.
- 235. — In general.
- 236. — In proceedings before trial or hearing.
 - (1). In general.
 - (2). Objections to pleadings.
- 237. — At trial or hearing.
 - (1). In general.
 - (2). Objections to evidence and witnesses in general.

V. PRESENTATION AND RESERVATION IN LOWER COURT OF GROUNDS OF REVIEW.(Cont'd)

- (3). Taking case or question from jury in general.
- (4). Dismissal or nonsuit.
- (5). Direction of verdict.
- (6). Objections to verdict and findings.
- 238. — As to judgment, or modification or vacation of judgment.
 - (1). In general.
 - (2). Motion for judgment notwithstanding verdict.
 - (3). Motion in arrest.
 - (4). Motion to modify judgment or order.
 - (5). Motion to correct clerical errors.
 - (6). Motion to vacate judgment or order.
 - (7). Review of judgment by confession or default.
 - (8). Method of objecting to time of rendering judgment.
- 239. — As to costs.
- 240. — Review of specific questions and particular decisions.
- 241. — Sufficiency and scope of motion.
- 242. Necessity of ruling on objection or motion.
 - (1). In general.
 - (2). Rulings on motions.
 - (3). Rulings on demurrer or plea in abatement.
 - (4). Rulings on evidence in general.
 - (5). Reservation of rulings.
- 243. Effect of failure to make objection.
- 243.1. — In general.
- 244. — Objections deemed to have been made.
- 245. — Want of opportunity to object.
- 247. Adding to or changing grounds of objection.
- (C) EXCEPTIONS.
- 248. Necessity in general.
- 249. Necessity on trial by court or referee in general.
- 250. Necessity in equitable actions.
- 251. Review of questions of law in general.
- 252. Review of rulings as to pleadings.

30. APPEAL AND ERROR

V. PRESENTATION AND RESERVATION IN LOWER COURT OF GROUNDS OF REVIEW.(Cont'd)

- 257. Review of rulings or orders before trial or hearing.
- 258. Review of proceedings at trial.
- 259. — In general.
- 260. — Rulings as to evidence.
 - (1). In general.
 - (2). Exclusion of evidence.
 - (3). Reception of evidence and examination of witnesses.
 - (4). On trial by court.
- 261. — Rulings as to arguments and conduct of counsel.
- 262. — Rulings as to submission of case or question to jury.
 - (1). In general.
 - (2). Taking case or question from jury.
- 263. — Instructions, and failure or refusal to give instructions.
 - (1). In general.
 - (3). Failure or refusal to give instructions.
 - (7). Error of law.
 - (8). Instructions not supported by evidence.
- 264. Exceptions to verdict or findings by jury.
- 265. Exceptions to decision or findings by court.
 - (1). In general.
 - (2). Exceptions to and review of conclusions of law.
- 266. Exceptions to rulings, report, or findings of referee, commissioner, or auditor.
 - (1). In general.
 - (2). Decision on report of referee or master.
- 267. Exceptions to judgment.
 - (1). In general.
 - (2). Matters appearing on face of record.
- 268. Review of sufficiency of evidence to sustain verdict, findings, or judgment.
- 269. Review of amount of recovery or relief awarded.
- 270. Exceptions to rulings and orders after trial or judgment.
 - (1). In general.

V. PRESENTATION AND RESERVATION IN LOWER COURT OF GROUNDS OF REVIEW.(Cont'd)

- (2). Motion for new trial or venire de novo.
- (3). Vacation or modification of judgment.
- (4). Costs.
- 271. Review of decisions of intermediate courts.
- 272. Necessity of timely exception.
 - (1). In general.
 - (2). Exceptions to instructions.
 - (3). Exceptions to decision, verdict, findings, or judgment.
- 273. Necessity of specific exception.
 - (1). In general.
 - (2). Rulings as to pleadings.
 - (3). Proceedings at trial in general.
 - (4). Rulings as to evidence.
 - (5). Instructions.
 - (9). Decision or findings by court, referee, commissioner, or auditor.
 - (10). Verdict or judgment.
 - (11). Sufficiency of evidence and amount of recovery.
 - (12). Rulings and orders after trial or judgment.
- 274. Scope and effect.
 - (1). In general.
 - (3). Rulings as to evidence.
 - (4). Submission of case or question to jury.
 - (5). Instructions.
 - (6). Decision or findings by court, referee, commissioner, or auditor.
 - (7). Verdict or judgment.
- 275. Necessity of ruling on exception.
- 276. Effect of failure to take proper exception.
- 276.1. — In general.
- 277. — Exception deemed to have been taken.
- 278. — Agreements to give benefit of exception.
- 279. — Relief against failure to except.
- 280. Waiver of exceptions.
- (D) MOTIONS FOR NEW TRIAL.
- 281. Necessity in general.

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V. PRESENTATION AND RESERVATION IN LOWER COURT OF GROUNDS OF REVIEW.(Cont'd)

- (1). In general.
- (2). Effect of statute dispensing with necessity of motion.
- (3). Special proceedings and provisional remedies.
- 282. Necessity on trial by court or referee in general.
- 283. Necessity in equitable actions.
- 284. Review of questions of law in general.
- 285. Review of rulings as to pleadings.
- 286. Review of rulings or orders before trial or hearing.
- 287. Review of proceedings at trial.
- 288. — In general.
- 289. — Rulings as to evidence.
- 290. — Rulings as to arguments and conduct of counsel.
- 291. — Rulings as to submission of case or question to jury.
- 292. — Instructions, and failure or refusal to give instructions.
- 293. Review of objections to verdict, findings, or judgment.
- 294. Review of sufficiency of evidence to sustain verdict, findings, or judgment.
 - (1). In general.
 - (2). On trial by court or referee or in equitable actions.
- 295. Review of amount of recovery or relief awarded.
- 296. Review of decisions on motions after trial or judgment.
- 297. Review of decisions of intermediate courts.
- 298. Motion on grounds covered by exceptions or motion in arrest.
- 299. Review on direct bill of exceptions.
- 300. Necessity of timely motion.
- 301. Necessity of statement of grounds.
- 302. Sufficiency and scope of statement of grounds.
 - (1). In general.
 - (2). Waiver by failure to argue or present to court.
 - (3). Rulings as to evidence.
 - (4). Instructions, and failure or refusal to give instructions.

V. PRESENTATION AND RESERVATION IN LOWER COURT OF GROUNDS OF REVIEW.(Cont'd)

- (5). Objections to verdict, findings, or judgment.
- (6). Sufficiency of evidence and amount of recovery.
- 303. Authentication of statement of grounds.
- 304. Necessity of ruling or order on motion.
- 305. Necessity and sufficiency of exception to decision.

(E) CASES AND QUESTIONS RESERVED OR CERTIFIED.

- 307. Nature and grounds of reservation or certification.
 - 307.1. — In general.
- 308. — Nature of questions in general.
- 309. — Constitutional questions.
- 310. — Novel or important questions.
- 311. — Division of opinion or dissent in lower court.
- 312. — Necessity of decision by trial court.
- 314. Time for reservation or certification.
- 315. Proceedings to procure certificate.
- 316. Requisites and sufficiency of reservation or certificate.
- 318. Verdict or judgment subject to opinion of appellate court.
- 319. Exceptions ordered to be heard in appellate court in first instance.
- 320. Report of case or of evidence for consideration by appellate court.
 - (1). In general.
 - (2). Status of case and matters reportable.
 - (3). Request for report; draft report.
 - (4). Making or allowance of report; discretion.
 - (5). Form and contents of report.
 - (6). Time of filing report.
 - (7). Proceedings before appellate court.

VI. PARTIES.

- 321. Appellants or plaintiffs in error.
 - 321.1. — In general.
- 322. — Proper or necessary parties in general.
- 323. — Separate proceeding by one or more coparties.

30. APPEAL AND ERROR

VI. PARTIES.(Cont'd)

- (1). In general.
- (2). Parties severally liable or having separate interests.
- (3). Parties jointly liable or having joint interests.
- (4). Effect of statutes dispensing with necessity of joining coparty in general.
- (5). Appeal during term time or in vacation.
- (6). Right to use name of coparty.
- 324. — Summons and severance.
- 325. — Joinder.
- 326. Appellees, respondents, or defendants in error.
- 326.1. — In general.
- 327. — Proper or necessary parties.
 - (.5). In general.
 - (1). Proper parties.
 - (2). Necessary parties in general.
 - (3). To separate proceeding by one or more coparties.
 - (4). Persons not parties below or having no interest.
 - (5). Judgment favorable to one or more coparties.
 - (6). Service of process, and effect of default, disclaimer, or dismissal.
 - (7). Character of party and nature of interest in general.
 - (8). Executors or administrators.
 - (9). Receivers.
 - (10). Debtors, creditors, and insolvents.
 - (11). Proceedings to establish or determine priority of liens or claims in general.
 - (12). Mortgagors and mortgagees.
 - (13). Incidental and collateral proceedings.
 - (14). Proceedings relating to provisional remedies.
- 328. — Joinder.
- 329. Intervention or addition of new parties.
- 330. Transfer or devolution of interest.
 - (1). In general.
 - (2). Substitution of parties.
- 331. Death.
- 331.1. — In general.

VI. PARTIES.(Cont'd)

- 332. — Before appeal or writ of error.
- 333. — Pending appeal or writ of error.
- 334. — Continuance or revival of proceedings.
 - (.5). In general.
 - (1). Necessity for revival or substitution.
 - (2). Death of coparty.
 - (3). Persons required or entitled to be substituted on death of party in representative capacity.
 - (4). Persons by or against whom revival may be had—executors and administrators.
 - (4.1). — In general.
 - (5). — Heirs and devisees.
 - (6). Proceedings.
 - (7). Time for revival.
- 335. Designation and description.
- 336.1. Defects and objections.
- 336.2. Amendments.

VII. TRANSFER OF CAUSE.

(A) TIME OF TAKING PROCEEDINGS.

- 337. Premature appeal or other proceeding.
 - (1). In general.
 - (2). Before judgment or order or perfecting thereof.
 - (3). Pendency of proceedings in lower court.
- 338. Nature and operation of limitations in general.
 - (1). In general.
 - (2). Construction and application of particular statutes.
 - (3). Cross-appeal.
- 339. Limitations applicable to particular proceedings.
 - (1). In general.
 - (2). Interlocutory judgments or orders in general.
 - (3). Order or decree of dismissal.
 - (4). Proceedings relating to provisional remedies.
 - (5). Orders after final judgment.
 - (6). Order on motion for new trial.
- 340. Limitations of review of particular questions.

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VII. TRANSFER OF CAUSE.(Cont'd)

- 342. Separate proceeding by or against one or more coparties.
- 343. Commencement of period of limitation.
 - 343.1. — In general.
- 344. Completeness or finality of decision.
 - 345.1. — Motion for new trial.
 - 345.2. — Petition for rehearing or bill of review.
- 346. — Effect of motion to vacate or modify judgment or order.
 - 346.1. — Effect of motion to vacate or set aside.
 - 346.2. — Effect of amendment or alteration of judgment or order.
- 347. — Rendition or entry of judgment or order.
 - (1). In general.
 - (2). Character of judgment or order.
 - (3). Entry nunc pro tunc, and effect of stipulation, appeal, or objections to cost bill.
- 348. — Service of notice or copy of judgment or order.
 - (1). In general.
 - (2). Sufficiency of notice or copy and service thereof.
- 349. Effect of disability or death of party or counsel.
- 350. Fast bill of exceptions or writ of error.
- 351. Taking and perfecting proceeding in time.
 - (1). In general.
 - (2). What proceedings must be taken within time limited.
- 352. Extension of time.
 - 352.1. — In general.
- 353. — Judicial authority.
- 354. — Consent of parties.
- 355. Waiver of objections to delay.
- 356. Effect of delay or failure to take proceedings.
- 357. Relief in case of failure to proceed in time.
 - (1). In general.
 - (2). Grounds for relief.

(B) PETITION OR PRAYER, ALLOWANCE, AND CERTIFICATE OR AFFIDAVIT.

- 358. Necessity of allowance or leave.
- 359. Authority of court or judge.
- 360. Prayer and allowance in open court.
- 361. Petition, affidavit, or other application.
 - (.5). In general.
 - (1). Necessity.
 - (2). Form, requisites, and sufficiency in general.
 - (3). Designation of court, cause, or parties.
 - (4). Allegations of interest.
 - (5). Hearing, objections, and amendment.
- 362. Specification of errors.
 - (.5). In general.
 - (1). Necessity.
 - (2). Sufficiency.
 - (3). Amendment or filing nunc pro tunc.
- 363. Grounds for allowance or refusal.
- 364. Term or day to which appeal may be taken or writ made returnable.
- 365. Order for appeal or writ of error.
 - (1). In general.
 - (2). Vacation or modification of order.
- 366. Certificate as to grounds.
- 367. Affidavit of merits and good faith.
- 368. Stipulation for judgment absolute on appeal from order granting new trial.

(C) PAYMENT OF FEES OR COSTS, AND BONDS OR OTHER SECURITIES.

- 369. Payment of costs in lower court.
- 370. Payment of fees on appealing.
- 371. Payment of costs or fees for transcript or return.
- 372. Necessity of security to perfect appeal or other proceeding.
- 373. — In general.
 - (1). In general.
 - (2). In probate or other inferior court.
- 374. — Exemptions.
 - (1). In general.
 - (2). Executors and administrators.
 - (3). Guardians.
 - (4). States, political divisions, boards, and officers.

30. APPEAL AND ERROR

VII. TRANSFER OF CAUSE.(Cont'd)

- 375. Parties by and to whom security to be given.
- 375.1. — In general.
- 376. — Obligees.
- 377. — Obligors.
- 378. Sureties.
- 378.1. — In general.
- 379. — Necessity and number.
- 380. — Competency.
- 381. — Sufficiency and justification.
- 382. Amount or penalty of bond or undertaking.
- 383. Conditions of bond or undertaking.
- 384. Form and contents of bond or undertaking.
 - (1). In general.
 - (2). Recital of judgment or order.
 - (3). Recital of sureties, and obligors, and obligees.
- 385. Execution of bond or undertaking.
 - (1). In general.
 - (2). Signature.
- 386. Approval of bond or undertaking.
 - (.5). In general.
 - (1). Necessity for approval and authority to approve.
 - (2). Proceedings for, and sufficiency and effect of approval.
- 387. Delivery or filing and service of bond or undertaking.
 - (1). In general.
 - (2). Necessity for timely filing.
 - (3). Time for giving or filing security in general.
 - (4). Premature execution or filing.
 - (5). Taking proceedings in time.
 - (6). Extension of time and relief in case of failure to file in time.
- 388. Deposit as security.
- 389. Proceeding in forma pauperis.
 - (1). In general.
 - (2). Form and contents, affidavit or oath.
 - (3). Filing or taking affidavit and proceedings in general.
 - (4). Truth of affidavit or oath.
- 390. Amendment of bond or undertaking.
- 391. Additional or new security.

VII. TRANSFER OF CAUSE.(Cont'd)

- (1). In general.
 - (2). Nature of defect in general.
 - (3). Defects as to parties or sureties.
 - (4). Defects as to amount or penalty and conditions.
 - (5). Time and court for application or filing.
 - (5.1). — In general.
 - (6). — Before or after motion to dismiss.
 - (7). New security on second or further appeal.
 - 392. Waiver of security or of defects.
 - 393. Use of supersedeas bond as appeal bond.
 - 394. Bond or undertaking on review of two or more decisions.
 - (1). In general.
 - (2). Appeal from judgment and from order denying new trial.
 - 395. Effect of failure to give or defects in security.
- (D) WRIT OF ERROR, CITATION, OR NOTICE.**
- 396. Necessity of appellate process or of notice.
 - 397. Process or notice on appeal in open court.
 - 398. Writ of error.
 - 398.1. — In general.
 - 399. — Issuance.
 - 400. — Form and requisites.
 - 401. — Service.
 - 402. — Return.
 - 403. — Defects, objections, and amendments.
 - 404. Citation or other process.
 - 404.1. — In general.
 - 405. — Issuance.
 - 406. — Form and requisites.
 - 407. — Service.
 - (1). In general.
 - (2). Time for service.
 - 408. — Return.
 - 409. — Defects, objections, and amendments.
 - 410. Scire facias to hear errors.
 - 411. Nature and method of notice in general.
 - 412. Authority to give notice.

30. APPEAL AND ERROR

VII. TRANSFER OF CAUSE.(Cont'd)

- 413. Parties entitled to notice.
- 413.1. — In general.
- 414. — Adverse parties.
- 415. — Coparties.
- 416. Form and requisites of notice.
- 416.1. — In general.
- 417. — Sufficiency in general.
 - (1). In general.
 - (2). Title of cause and designation or description of parties.
 - (3). Signature.
- 418. — Decisions and proceedings included.
- 419. — Descriptions of judgments or orders.
 - (1). In general.
 - (2). Showing time of rendition or entry.
- 420. — Specification of interlocutory or intermediate judgments or orders.
- 421. — Specification of errors.
- 422. — Defects, objections, and amendments.
- 423. Service of notice.
- 423.1. — In general.
- 424. — Persons to be served.
- 425. — Time for service.
- 426. — Mode and sufficiency of service.
- 427. — Return or proof of service.
- 428. Filing notice and proof of service.
 - (1). In general.
 - (2). Time for filing.
- 429. Waiver of process or notice or of defects therein.
- 430. Effect of failure to serve process or to give notice.
 - (1). In general.
 - (2). Relief from effect of failure.

(E) ENTRY, DOCKETING, AND APPEARANCE.

- 431. Necessity of entering or docketing cause.
- 432. Time for entry or docketing.
- 433. Sufficiency of entry.
- 434. Necessity and requisites of appearance.
- 435. Effect of appearance.

VIII. EFFECT OF TRANSFER OF CAUSE OR PROCEEDINGS THEREFOR.

(A) POWERS AND PROCEEDINGS OF LOWER COURT.

- 436. Transfer of jurisdiction in general.
- 437. Force and effect of judgment or order appealed from.
- 438. New trial or rehearing.
- 439. Opening or vacating judgment or order.
- 440. Amendment of proceedings.
- 441. Perfecting and transmission of record.
- 442. Collateral actions or proceedings.
- 443. Property in controversy.
- 444. Provisional remedies.
- 445. — In general.
- 446. — Attachment and garnishment.
- 447. — Injunction.
- 448. — Receiver.
- 449. Interlocutory appeals.
- 450. Proceedings for review of part of judgment or order.
- 451. Proceedings for review by one or more coparties.
- 452. Irregular or ineffectual proceedings for review.

(B) JURISDICTION ACQUIRED BY APPELLATE COURT.

- 454. Effect of taking appeal or other proceeding.
- 455. Time when jurisdiction attaches.
- 456. Extent of jurisdiction.
- 457. Effect of subsequent proceedings in court below.

IX. SUPERSEDEAS OR STAY OF PROCEEDINGS.

- 458. Right to supersedeas or stay in general.
 - (1). In general.
 - (2). Judgments or orders which may be superseded or stayed in general.
 - (3). Injunction or appointment and proceedings of receiver.
- 459. Taking and perfecting appeal or other proceeding for review as condition.
- 460. Operation of appeal or writ of error and necessity for security or allowance.
 - (1). In general.
 - (2). Nature of judgment or decree.

30. APPEAL AND ERROR

IX. SUPERSEDEAS OR STAY OF PROCEEDINGS.(Cont'd)

- (3). Court from or to which appeal is taken.
- (4). Parties required to give security.
- 461. Use of appeal or cost bond as supersedeas bond.
- 462. Upon security.
- 462.1. — In general.
- 463. — Parties to whom security to be given.
- 464. — Sureties.
- 465. — Amount or penalty of bond or undertaking.
 - (1). In general.
 - (2). Determination of amount by court.
- 466. — Conditions of bond or undertaking.
- 467. — Form and contents of bond or undertaking.
- 468. — Time of giving bond.
- 469. — Execution of bond or undertaking.
- 470. — Approval of bond or undertaking.
- 471. — Delivery or filing and service of bond or undertaking.
- 472. — Deposit as security.
- 473. — Proceeding in forma pauperis.
- 474. — Amendment of bond or undertaking.
- 475. — Additional or new security.
- 476. Upon allowance by court or judge.
- 476.1. — In general.
- 477. — Authority of court or judge.
- 478. — Application and proceedings thereon.
- 479. — Grounds for allowance.
 - (1). In general.
 - (2). Discretion of court.
- 480. — Security or other conditions.
- 481. — Order for supersedeas or stay.
- 482. Modifying or vacating.
- 483. Operation and effect pending further appeal.
- 484. Scope and effect as stay.
- 484.1. — In general.
- 485. — Proceeding in cause in general.
 - (1). In general.
 - (2). Enforcement of judgment or order.

IX. SUPERSEDEAS OR STAY OF PROCEEDINGS.(Cont'd)

- (3). Performance of judgment.
- (4). Commencement and continuance of stay and effect of prior proceedings.
- 486. — Arrest and bail.
- 487. — Attachment and garnishment.
- 488. — Injunction.
 - (.5). In general.
 - (1). Appeal from dismissal of suit or dissolution of injunction.
 - (2). Appeal from grant or denial of injunction.
- 489. — Appointment and proceedings of receiver.
- 490. — Other actions or proceedings.
- 491. Proceedings in cause upon giving security for restitution.
- 492. Proceedings in violation of supersedeas or stay.

X. RECORD.

(A) MATTERS TO BE SHOWN.

- 493. Jurisdiction of lower court.
- 494. Nature and form of decision.
- 495. Grounds of decision.
- 496. Proceedings sustaining judgment or order.
- 497. Grounds of review.
 - (1). In general.
 - (2). Persons entitled to review.
- 498. Presentation and reservation of grounds of review.
- 498.1. — In general.
- 499. — Questions and objections in general.
 - (1). In general.
 - (2). Objections to pleadings.
 - (3). Objections to evidence and depositions.
 - (4). Instructions.
- 500. — Rulings by lower court.
 - (1). In general.
 - (2). Rulings on pleadings.
 - (3). Rulings on evidence.
 - (4). Instructions.
- 501. — Exceptions.
 - (1). In general.

30. APPEAL AND ERROR

X. RECORD.(Cont'd)

- (2). Rulings as to pleadings.
- (3). Rulings as to evidence.
- (4). Instructions.
- (5). Findings or judgment.
- 502. — Motions for new trial.
 - (1). In general.
 - (2). Review of proceedings at trial.
 - (3). Review of sufficiency of evidence.
 - (4). Notice of motion.
 - (5). Time of filing or service.
 - (6). Ruling or order on motion.
 - (7). Exceptions to decision.
- 503. Jurisdiction of appellate court.
- 504. Taking and perfecting of appeal or other proceeding for review.
- 504.1. — In general.
- 505. — Time of taking proceedings.
- 506. — Sufficiency of proceedings in general.
- 507. — Allowance or leave.
- 508. — Security.
- 509. — Process or notice.
- 510. Filing of papers part of record.
- 511. Making and filing of bill of exceptions, case, or statement.
 - (1). In general.
 - (2). Time of making and filing in general.
 - (3). Allowance or extension of time.
- 512. Proceedings of intermediate courts.
- 513. Several appeals or proceedings for review, and cross-appeals.
- 514. Successive appeals or proceedings for review.
- 515. Incorporating evidence and stenographer's report.
 - (1). In general.
 - (2). In equity suits.
 - (3). Filing longhand manuscript of evidence.

(B) SCOPE AND CONTENTS.

- 516. Proceedings included in general.
- 517. Process and appearance.
- 518. Pleadings and proceedings relating thereto.
 - (1). In general.

X. RECORD.(Cont'd)

- (2). Interrogatories and answers thereto.
- (3). Demurrers and rulings thereon.
- (4). Amendment of pleadings.
- (5). Exhibits, instruments sued on, and bills of particulars.
- (6). Striking out pleadings, and proceedings relating thereto.
- (7). Judgment on the pleadings.
- 519. Stipulations.
- 520. Interlocutory motions, orders, and judgments.
 - (1). In general.
 - (2). Proceedings preliminary to trial in general.
 - (3). Change of venue or transfer of cause.
 - (4). Continuance.
 - (5). Dismissal and nonsuit.
- 521. Evidence.
- 522. — In general.
 - (1). In general.
 - (2). Demurrer to evidence and motion to strike out.
- 523.1. — Depositions.
- 523.2. — Affidavits.
- 524. — Documents.
- 525. Instructions.
 - (1). In general.
 - (2). Signing and filing.
 - (3). Marking "Given" or "Refused," and exceptions thereto.
- 526. Proceedings on reference.
- 527.1. Verdict.
- 527.2. Findings of fact, conclusions of law, and decision.
- 528. Proceedings on motion in arrest, for new trial, or rehearing.
 - (1). In general.
 - (2). Notice of motion for new trial.
 - (3). Statements on motion.
 - (4). Affidavits and other evidence.
- 529. Judgment or decree.
 - (1). In general.
 - (2). Vacation or modification of judgment.
- 530. Proceedings after judgment.
- 531. Record on review of interlocutory decision.

30. APPEAL AND ERROR

X. RECORD.(Cont'd)

- 532. Record on review of decision of intermediate court.
- 533. Opinion of lower court.
 - (1). In general.
 - (2). Opinion of intermediate court.
- 534. Proceedings for appeal or other review.
- 535. Bill of exceptions, case, or statement.
- 535.1. — In general.
- 536. — As part of record in general.
- 537. — Necessity of timely making and filing in lower court.
- 538. Special orders as to contents of record.
- 539. Stipulations as to contents of record.
- 540. Papers referred to in record.
- 541. Official certificates or statements accompanying transcript.
- 542. Affidavits accompanying or supplementing transcript.
- 543. Effect of loss or destruction of record.

(C) NECESSITY OF BILL OF EXCEPTIONS, CASE, OR STATEMENT OF FACTS.

- 544. Decisions not otherwise reviewable.
 - (1). In general.
 - (2). Extent of review in general.
 - (3). Matters apparent of record.
- 545. Proceedings not part of record.
- 546. Presentation of grounds of review.
- 546.1. — In general.
- 547. — Facts not shown by record in general.
 - (1). In general.
 - (2). Verdict and findings.
 - (3). Conduct and remarks of court or counsel.
- 548. — Evidence.
 - (1). In general.
 - (2). Necessity of statement of facts in general.
 - (3). Nature of question or issue.
 - (4). Proceedings on motions, and dismissal, nonsuit, demurrer to evidence, or direction of verdict.
 - (5). Admission or exclusion of evidence.
 - (6). Instructions.
 - (7). Cases in equity.
- 549. Presentation of exceptions taken.
 - (1). In general.

X. RECORD.(Cont'd)

- (2). Rulings as to pleadings and evidence.
- (3). Instructions.
- (4). Verdict, findings, or judgment.
- (5). Rulings on motions.
- 550. Changing case into bill of exceptions or special verdict.
- 551. Necessity of case or statement in addition to bill of exceptions.
- 552. Scope and sufficiency of case, statement, or certificate of evidence.
- 553. Substitutes.
 - (1). In general.
 - (2). Reporter's notes and transcript or abstract of testimony.
- 554. Effect of failure to make bill, case, or statement.
 - (1). In general.
 - (2). Dismissal of appeal.
 - (3). Affirmance of judgment.
- 555. Effect of striking out bill, case, or statement.

(D) CONTENTS, MAKING, AND SETTLEMENT OF CASE OR STATEMENT OF FACTS.

- 556. Purpose and functions.
- 557. Duty to make.
- 558. Parties participating.
- 559. Matters included.
- 560. Incorporating and abridging evidence in general.
- 561. Incorporating stenographer's report.
- 562. Incorporating matters of record, exhibits, and other documents.
- 563. Form and arrangement.
- 564. Time for making and filing or service.
 - (1). In general.
 - (2). Time for filing in general.
 - (3). Extension or enlargement of time in general.
 - (4). Failure to make or serve in time.
 - (5). Failure to file in time and excuses therefor.
- 565. Filing and serving proposed case or statement.
- 566. Proposed amendments or counter case or statement.
- 567. Time for settlement.
 - (1). In general.

30. APPEAL AND ERROR

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- (2). Extension of time and waiver of objections.
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 - (2). Necessity of settlement or approval.
 - (3). Authority of court or judge.
 - (4). Sufficiency of case or statement and amendment thereof.
- 570. Resettlement.
- 571. Proceedings to compel settlement and signing.
- 573. Making and filing agreed case or statement.
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- 575. Certificate as to correctness of stenographer's report.
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- 577. Unauthorized alterations.
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- 579. Purpose and functions.
- 580. Necessity and duty to make.
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- 591. Substitutes.
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- 594. Necessity.
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 - 610. Substitutes.
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- 622. — Commencement of period of limitation.
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- 625. Mode and sufficiency of transmission and filing.
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- 630. Loss, destruction, or withdrawal from files.

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- 654. — Supplying omissions.
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- 657. Remitting to lower court.
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 - (2). To bring up amendments made below.
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- (5). Matter to affirm or reverse.
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 - (2). Certificate or recital that all evidence or proceedings are included.
- 664. Conflict in record.
 - (1). In general.
 - (2). Between bill of exceptions and other parts of record.
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 - (4). Conflict in or between bill of exceptions and case or statement of facts.
- 665. Abstracts.
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- 666. Impeaching or contradicting.
- 666.1. — In general.
- 667. — Grounds and extent.
- 668. — Admissibility of evidence in general.
- 669. — Official certificates.
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 - (1). In general.

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- (2). Effect of omissions, or imperfections in general.
- (3). Effect of omission of evidence, or recital or certificate that it is all included.
- (4). Effect of omission of facts, proceedings, or evidence relating to particular questions.
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- (7). Limitation by abstract of record.
- 672. Errors on face of record.
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- 673.2. Defenses.
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- 675. Venue.
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- 678. Pleading.
- 679. — In general.
 - (1). In general.
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- 680. — Demurrers.
 - (1). In general.
 - (2). Necessity of setting forth demurrer or grounds thereof.
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- 681. — Amendments.
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- 684. Questions on interlocutory proceedings.
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 - (4). Dismissal or nonsuit before trial.
- 685. Right to trial by jury.
- 686. Qualifications and selection of jurors.
- 687. Reference.
- 688. Conduct of trial or hearing.
 - (1). In general.
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- (3). Custody and conduct of jury.
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 - (1). In general.
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 - (3). Necessity of setting forth facts establishing objection.
 - (4). Necessity of setting forth evidence in general.
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 - (6). Determination of competency of witnesses.
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- 691. — Necessity of setting forth all the evidence.
- 692. — Necessity of setting forth evidence excluded.
 - (1). In general.
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- 693. Sufficiency of evidence.
- 694. — In general.
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- 695. — Necessity of setting forth all the evidence.
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- 696. — Necessity of recital or certificate that all the evidence is included.
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- 697. — Sufficiency of recital or certificate that all the evidence is included.
 - (1). In general.
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- (4). Recital or certificate that all the material evidence is included.
- (5). Necessity and sufficiency of recital or certificate that all evidence offered is included.
- (6). Omissions apparent though recital or certificate is sufficient.
- (7). Stipulations or certificates by counsel.
- 698. Instructions.
- 699. — In general.
 - (1). In general.
 - (2). Necessity of setting forth instructions in general.
 - (3). Necessity of setting forth matters referred to in instruction.
 - (4). Requests for instructions.
- 700. — Necessity of setting forth pleadings.
- 701. — Necessity of setting forth evidence.
 - (1). In general.
 - (2). To review instructions refused.
 - (3). Necessity and sufficiency of recital that all the evidence is included.
- 702. — Necessity of setting forth entire charge.
 - (1). In general.
 - (2). Necessity and sufficiency of recital that all instructions are included.
- 703. — Necessity of setting forth instructions refused.
- 704.1. Verdict.
- 704.2. Findings and decision.
- 705. Amount of recovery or extent of relief.
- 706. Grounds for arrest of judgment, new trial, or rehearing.
 - (1). In general.
 - (2). Necessity of setting forth motion or grounds thereof.
 - (3). Necessity of setting forth proceedings and evidence on motion.
 - (4). Necessity of setting forth evidence at trial in general.
 - (5). Necessity of setting forth all the evidence.
- 707. Judgment.
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- (2). Necessity of setting forth evidence.
- 708. Questions arising after judgment.
- 709. Costs.
- 711. Questions in intermediate courts.
- (N) MATTERS NOT APPARENT OF RECORD.
- 712. Matters not included or shown in general.
- 713. Matters improperly included.
 - (1). In general.
 - (2). Matters appearing only as part of motion for new trial.
 - (3). Including matters in bill of exceptions which should go into record proper.
- 714. Matters appearing otherwise than by record.
 - (1). In general.
 - (2). Records in other cases or on former trial or appeal.
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- 715. Evidence relating to question involved.
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- 718. Purpose and functions.
- 719. Necessity.
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 - (2). In actions at law or suits in equity in general.
 - (3). Jurisdictional questions.
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 - (6). Sufficiency of evidence.
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XI. ASSIGNMENT OF ERRORS.(Cont'd)

- (10). Rulings on motions for new trial and proceedings after judgment.
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- 720. Parties by or against whom errors may be assigned.
- 720.5. — In general.
- 721. — Joint assignments.
 - (1). In general.
 - (2). To ruling on demurrer or motion.
- 721.3. Separate assignments.
- 722. Form and requisites in general.
 - (1). In general.
 - (2). Designation of court or cause.
 - (3). Designation of parties.
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- 723. Specification of errors.
- 724. — In general.
 - (1). In general.
 - (2). Certainty, definiteness, and particularity, in general.
 - (3). Particular assignments.
 - (4). Reasons and grounds of objections and exceptions.
 - (5). Reference to record as sufficient specification.
- 725. — Rulings on pleadings.
 - (1). In general.
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- 726. — Interlocutory proceedings.
- 727. — Conduct of trial.
- 728. — Rulings as to evidence.
 - (1). In general.
 - (2). Identifying or setting out evidence in general.
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- 729. — Submission of issues or questions to jury.
- 730. — Instructions.
 - (1). In general.
 - (2). Identifying or setting out instructions in general.
- 731. — Determination.
 - (.5). In general.
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- (3). Decision.
- (4). Report of referee, auditor, or commissioner, and rulings thereon.
- (5). Sufficiency of evidence.
- 732. — Motions in arrest, for new trial, or for rehearing.
- 733. — Judgment.
- 734. — Proceedings after judgment.
- 735. Including errors in one assignment.
- 736. — In general.
- 737. — Rulings on pleadings.
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 - (.5). In general.
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 - (3). Report of clerk or master.
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- 742. Propositions and statements accompanying assignment of errors.
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- 743. References to record.
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- 744. Time for filing.
- 745. Filing and annexing to record.
- 746. Service.
- 747. Assignment of cross-errors.
 - (.5). In general.
 - (1). Right to assign.
 - (2). Necessity.
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XI. ASSIGNMENT OF ERRORS.(Cont'd)

- (4). Scope and effect.
- 748. Defects and objections.
- 748.2. Amendments.
- 749. Pleading to assignment and joinder in error.
- 750. Scope and effect of assignment.
 - (1). In general.
 - (2). Pleadings and rulings thereon.
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 - (5). Submission of issues or questions to jury.
 - (6). Instructions.
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 - (9). Questions raised by assigning error to ruling on motion for new trial.
- 751. Relation to record.
- 752. Substitutes.
- 753. Effect of failure to make or file.
 - (1). In general.
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- 758. Specification of errors.
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 - (5). Pleadings.
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 - 759. Incorporation of assignment of errors.
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 - 767. Striking out.
 - (1). In general.
 - (2). Improper matter.
 - 768. Scope and effect.
 - 769. Failure to file or serve, or to file or serve in time.
 - 769.1. — In general.
 - 770. — Effect.
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 - 772. — Relief.
 - 773. — Dismissal or affirmance or reversal.
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 - (3). Grounds for not dismissing.
 - (4). Affirmance.
 - (5). Reversal.
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- 775. Nature of remedy by dismissal.

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- 777. Dismissal on consent.
- 778. Power to order dismissal.
- 779. Grounds for dismissal.
- 780. — In general.
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 - (2). Want of interest.
- 781. — Want of actual controversy.
 - (1). In general.
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 - (3). Collusive actions.
 - (4). Effect of delay or lapse of time in general.
 - (5). Effect of succession to or expiration of term of office.
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 - (7). Effect of compliance with judgment or order or acceptance of benefits.
- 782. — Want of jurisdiction.
- 783. — Defects in proceedings in lower court.
 - (1). In general.
 - (2). Motion for new trial.
- 784. — Defects in proceedings for review.
- 785. — Defects relating to record.
- 786. — Proceedings frivolous or for delay.
- 787. — Failure to prosecute proceedings.
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- 790. — Review unnecessary or ineffectual.
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- 791. — Waiver of defects or objections.
- 792. Dismissal by court on its own motion.
- 793. Dismissal without prejudice.
- 794. Motion for dismissal.
- 794.1. — In general.
- 795. — Form and requisites.
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- 798. — Notice.
- 799. — Affidavits and other proofs.
- 800. — Curing defects before hearing.
- 801. — Hearing and determination.
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 - (3). Questions considered in general.
 - (4). Consideration or determination of case on merits and postponement until final hearing in general.
 - (5). Examination of record.
- 802. Order of dismissal.
- 803. Effect of dismissal.
- 804. Plea in abatement.
- 805. Abandonment.
- 806. Order declaring proceedings abandoned.
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- 809. Order of causes.
- 810. Preferred causes.
- 811. Advancement of cause.
- 812. Correction of calendar.
- 813. Striking off or quashing cause.
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- 815. Condition of cause in general.
- 816. Consolidation and hearing causes together.
- 817. Time for hearing.
- 818. Continuance or postponement.
- 819. Suspension or stay.
- 820. Conduct of hearing in general.

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- 821. Consideration of cause as a whole.
- 822. Arguments of counsel.
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- 826. Submission without argument; summary disposition.
- 827. Setting aside submission.
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- 829. Rehearing.
- 830. — In general.
 - (1). In general.
 - (2). Divided court.
- 831. — Power to grant.
- 832. — Grounds.
 - (1). In general.
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 - (3). Defects relating to record.
 - (4). Contentions other than those made on the hearing.
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- 833. — Application.
 - (1). In general.
 - (2). Parties.
 - (3). Time for making application.
 - (4). Petition or motion and briefs.
 - (5). Hearing and determination.
- 834. — Effect of granting.
- 835. — Scope and conduct.
 - (1). In general.
 - (2). Contentions other than those made on the hearing.
 - (3). Matters not apparent of record.

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(A) IN GENERAL.

- 3001. In general.
- 3002. Power, function, duty, and discretion of reviewing court in general.
- 3003. Relation of reviewing court to parties; court as advocate.

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- 3011. In general.
- 3012. Order in which reviewing court addresses questions and issues.
- 3013. — In general.
- 3014. — Jurisdiction.
- 3015. — Mootness.
- 3016. — Standing.
- 3017. — Evidence.
- 3018. — Summary judgment.

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- 3021. In general.
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- 3024. Ripeness; prematurity.
- 3025. Particular questions and issues.
- 3026. — In general.
- 3027. — Procedural questions and issues in general.
- 3028. — Jurisdiction and venue.
- 3029. — Parties, process, and appearance.
- 3030. — Limitations and laches.
- 3031. — Pleading.
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- 3033. — Dismissal or nonsuit.
- 3034. — Evidence and witnesses.
- 3035. — Trial or hearing.
 - (1). In general.
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 - (3). Verdict and findings.
- 3036. — Judgment.
 - (1). In general.
 - (2). Summary judgment.
 - (3). Default judgment.
- 3037. — Taking case or question from jury; judgment as a matter of law.
- 3038. — Reconsideration or rehearing; setting aside verdict; new trial.
- 3039. — Remedial questions and issues in general.
- 3040. — Injunctive relief.
 - (1). In general.
 - (2). Preliminary or temporary injunctive relief.

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XVI. REVIEW.(Cont'd)

3041. — Damages and other monetary relief.
 (1). In general.
 (2). Punitive damages.
3042. — Costs and fees.
3043. — Substantive questions and issues.

3. MATTERS BROUGHT UP WITH RULING APPEALED FROM.

3051. In general.
3052. Interlocutory, collateral, and supplementary matters in general.
3053. Particular matters as brought up.
3054. — In general.
3055. — Parties.
 (1). In general.
 (2). Class certification.
 (3). Intervention.
3056. — Pleadings.
3057. — Continuance or stay.
3058. — Discovery.
3059. — Reference.
3060. — Dismissal or nonsuit.
3061. — Summary judgment.
 (1). In general.
 (2). Cross-motions.
3062. — Taking case or question from jury; judgment as a matter of law.
3063. — Matters arising after ruling appealed from in general.
3064. — Reconsideration or rehearing; setting aside verdict; new trial.
 (1). In general.
 (2). Motion made after judgment.
3065. — Relief from judgment or order.
3066. — Remedial matters in general.
 (1). In general.
 (2). Provisional remedies in general.
 (3). Creditors' remedies.
 (4). Receivers and receivership.
3067. — Injunctive relief.
 (1). In general.
 (2). Preliminary or temporary injunctive relief.
3068. — Damages and other monetary relief.
3069. — Costs and fees.

XVI. REVIEW.(Cont'd)

3070. Matters brought up on separate appeal from interlocutory, collateral, or supplementary ruling.
3071. — In general.
3072. — Particular rulings appealed from.
 (1). In general.
 (2). Rulings relating to pleadings.
 (3). Rulings relating to trial or verdict.
 (4). — In general.
 (5). — Posttrial rulings in general.
 (6). — Taking case or question from jury; judgment as a matter of law.
 (7). — Setting aside verdict; new trial.
 (8). Rulings relating to previous rulings.
 (9). — In general.
 (10). — Postjudgment rulings in general.
 (11). — Reconsideration or rehearing of previous ruling.
 (12). — Relief from previous ruling.
 (13). — Enforcement of previous ruling.
 (14). Rulings relating to injunctions.
 (15). Rulings relating to costs and fees.

(C) PERSONS ENTITLED TO ASSERT ARGUMENTS ON REVIEW.

1. IN GENERAL.

3081. In general.
3082. Necessity and nature of harm to person complaining.
3083. — In general.
3084. — Error affecting nonparty to appeal.
3085. — Error affecting coparty or other related party.
3086. — Error affecting adverse party.
3087. Assertion by appellee, respondent, or defendant in error.
3088. — In general.
3089. — Necessity of separate or cross-appeal in general.
3090. — Particular rulings, objections, and contentions.
 (1). In general.

30. APPEAL AND ERROR

XVI. REVIEW.(Cont'd)

- (2). To sustain judgment appealed from.
- (3). To modify judgment or secure affirmative relief.
- (4). As against coparty or other related party.
- 3091. Assertion by nonparty.
- 2. ESTOPPEL AND WAIVER; INVITED ERROR.**
- 3101. In general.
- 3102. Invited, induced, or encouraged error.
- 3103. Consent, acquiescence, or participation in error.
- 3104. Particular matters and rulings.
- 3105. — In general.
- 3106. — Nature and theory of cause; grounds of action or defense.
- 3107. — Motions, hearings, and orders in general.
- 3108. — Dismissal and nonsuit in general.
- 3109. — Pleading.
- 3110. — Jurisdiction and venue.
- 3111. — Parties, process, and appearance.
- 3112. — Time for proceedings; limitations and laches.
- 3113. — Continuance and stay; consolidation and severance.
- 3114. — Discovery.
- 3115. — Trial.
 - (1). In general.
 - (2). Arguments and conduct of counsel.
 - (3). Submission of issues or questions to jury.
 - (4). Instructions.
 - (5). Custody and conduct of jury.
- 3116. — Evidence and witnesses in general.
- 3117. — Verdict, findings, and sufficiency of evidence.
- 3118. — Judgment.
 - (1). In general.
 - (2). Judgment by default.
 - (3). Summary judgment.
- 3119. — Taking case or question from jury; judgment as a matter of law.
- 3120. — Reconsideration or rehearing; setting aside verdict; new trial.
- 3121. — Relief from judgment or order.

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- (1). In general.
- (2). Relief from default judgment.
- 3122. — Remedial matters.
 - (1). In general.
 - (2). Injunctive relief.
 - (3). Monetary relief; damages.
 - (4). Interest.
- 3123. — Costs and fees.
- 3124. — Proceedings for review.
- (D) SCOPE AND EXTENT OF REVIEW.**
- 1. IN GENERAL.**
- 3131. In general.
- 3132. Standard of review in general.
- 3133. Questions and issues considered in general.
- 3134. Questions of law or fact in general.
- 3135. Deference given to lower court in general.
- 3136. Plenary, free, or independent review.
- 3137. De novo review.
- 3138. Review using standard applied below.
- 3139. Discretion of lower court.
- 3140. — In general.
- 3141. — Abuse of discretion.
- 3142. — Failure to exercise discretion.
- 3143. — Substitution of reviewing court's discretion or judgment.
- 3144. Review for correctness or error.
- 3145. — In general.
- 3146. — Clear error; "clearly erroneous" standard.
- 3147. — Manifest or obvious error.
- 3148. — Plain or palpable error.
- 3149. Nature and manner of proceeding below, effect of.
- 3150. — In general.
- 3151. — Legal or equitable proceedings.
 - (1). In general.
 - (2). De novo review.
- 3152. — Special proceedings.
- 3153. — Trial by jury or court.
- 3154. Nature of decision being reviewed, effect of.
- 3155. Mode of review, effect of.
- 3156. — In general.
- 3157. — Writ of error; appeal distinguished.

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XVI. REVIEW.(Cont'd)

- 3158. — Restricted appeal.
- 3159. — Permissive or discretionary review.
 - (1). In general.
 - (2). Cases or questions reported, reserved, or certified.
 - (3). Interlocutory rulings and appeals.

2. PARTICULAR SUBJECTS OF REVIEW IN GENERAL.

- 3161. In general.
- 3162. Conclusions of law in general.
- 3163. — In general.
- 3164. — Deference given to lower court in general.
- 3165. — Plenary, free, or independent review.
- 3166. — De novo review.
- 3167. — Discretion of lower court; abuse of discretion.
- 3168. — Review for correctness or error.
- 3169. Construction, interpretation, or application of law.
- 3170. — In general.
- 3171. — Written documents or instruments in general.
- 3172. — Constitutional law.
- 3173. — Statutory or legislative law.
- 3174. — Administrative law; regulations.
- 3175. — Local law; ordinances.
- 3176. — Judicial law.
- 3177. — Foreign law.
- 3178. — International law.
- 3179. — Treaties.
- 3180. Declarations of law.
- 3181. Choice of law.
- 3182. — In general.
- 3183. — Federal preemption.
- 3184. — State preemption of local law.
- 3185. Application of law to or in light of facts.
- 3186. Mixed questions of law and fact.
- 3187. Agreed or undisputed facts.
- 3188. Conclusiveness and effect of prior rulings; res judicata and collateral estoppel.

3. PROCEDURAL MATTERS IN GENERAL.

- 3191. In general.

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- 3192. Rules of court in general.
- 3193. Motions, hearings, and orders in general.
- 3194. Preliminary proceedings in general.
- 3195. Defenses, objections, and exceptions in general.
- 3196. Dismissal and nonsuit in general.
- 3197. — In general.
- 3198. — Deference given to lower court in general.
- 3199. — Plenary, free, or independent review.
- 3200. — De novo review.
- 3201. — Review using standard applied below.
- 3202. — Discretion of lower court; abuse of discretion.
- 3203. — Review for correctness or error.
- 3204. — Review of lower court's proceedings concerning question.
- 3205. Voluntary dismissal or nonsuit.
- 3206. Failure to prosecute, and dismissal or nonsuit therefor.
- 3207. Dockets and case management.
- 3208. Conferences and scheduling orders.
- 3209. Motions in limine.
- 3210. Jurisdiction.
- 3211. — In general.
- 3212. — Subject-matter jurisdiction.
- 3213. — Personal jurisdiction.
- 3214. — Abstention.
- 3215. Venue.
- 3216. — In general.
- 3217. — Change or transfer of venue.
- 3218. Forum non conveniens.
- 3219. Conditions precedent.
- 3220. — In general.
- 3221. — Exhaustion of other remedies.
- 3222. — Malpractice cases.
- 3223. Mootness, ripeness, finality, and prematurity.
- 3224. Parties.
- 3225. — In general.
- 3226. — Standing.
- 3227. — New parties; joinder.
- 3228. — Intervention.
- 3229. — Class actions.
- 3230. Process.

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- 3231. Appearance.
- 3232. — In general.
- 3233. — Special appearance.
- 3234. Time for proceedings; limitations and laches.
- 3235. Unclean hands.
- 3236. Estoppel and waiver.
- 3237. Stipulations.
- 3238. Abatement and revival.
- 3239. Continuance and stay.
- 3240. Consolidation and severance.
- 3241. Reference.
- 3242. Judge.
- 3243. — In general.
- 3244. — Bias, recusal, and disqualification.
- 3245. Jury.
- 3246. — In general.
- 3247. — Right to jury trial.
- 3248. — Selection and impaneling of jurors.
- 3249. Counsel.
- 3250. — In general.
- 3251. — Pro hac vice.
- 3252. — Disqualification.
- 3253. — Withdrawal and substitution.
- 3254. Indigent parties; proceedings in forma pauperis.
- 3255. — In general.
- 3256. — Counsel.
- 3257. Sanctions in general.
- 3258. — In general.
- 3259. — Discretion of lower court; abuse of discretion.
- 3260. Abusive, vexatious, or harassing litigation.
- 3261. Compromise and settlement.
- 3262. — In general.
- 3263. — Class actions.
- 3264. Proceedings for review.
- 3265. — In general.
- 3266. — Finality, certification, and leave to appeal.
- 3267. — Timeliness of appeal.
- 3268. — Supersedeas or stay.

4. PLEADING.

- 3271. In general.
- 3272. Amended and supplemental pleadings.

XVI. REVIEW.(Cont'd)

- 3273. — In general.
- 3274. — Complaint, petition, or other initial pleading.
- 3275. — Answer or other responsive pleading.
- 3276. — Amendment at or after trial.
- 3277. — Amendment to conform to evidence.
- 3278. — Amendment increasing demand, or adding cause of action or defense.
 - (1). In general.
 - (2). Punitive damages.
- 3279. Objections and exceptions; demurrer.
- 3280. Failure to state claim, and dismissal therefor.
- 3281. — In general.
- 3282. — Deference given to lower court in general.
- 3283. — Plenary, free, or independent review.
- 3284. — De novo review.
- 3285. — Review using standard applied below.
- 3286. — Discretion of lower court; abuse of discretion.
- 3287. — Review for correctness or error.
- 3288. — Review of lower court's proceedings concerning question.
- 3289. Judgment on the pleadings.
- 3290. Striking out.
- 3291. Making more definite and certain.
- 3292. Trial of issue by consent.
- 3293. Anti-SLAPP laws.

5. SET-OFF, COUNTERCLAIM, AND CROSS-CLAIM.

- 3301. In general.
- 3302. Pleading.
- 3303. Failure to state claim, and dismissal therefor.

6. DISCOVERY.

- 3311. In general.
- 3312. Perpetuation of testimony.
- 3313. Depositions.
- 3314. Interrogatories.
- 3315. Production of documents and other tangible things.
- 3316. Physical or mental examination of person.

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XVI. REVIEW.(Cont'd)

- 3317. Admissions on request.
- 3318. Subpoena.
- 3319. — In general.
- 3320. — Quashing subpoena.
- 3321. Protective order.
- 3322. Work product privilege; trial preparation materials.
- 3323. Failure to disclose; sanctions.
- 3324. — In general.
- 3325. — Spoliation.
- 3326. Particular sanctions.
- 3327. — In general.
- 3328. — Exclusion of evidence.
- 3329. — Striking pleading.
- 3330. — Dismissal.
- 3331. — Default judgment.
- 3332. — Costs and fees.

7. TRIAL.

- 3341. In general.
- 3342. Right to open and close.
- 3343. Remarks and conduct of judge.
- 3344. Arguments and conduct of counsel.
- 3345. Submission of issues or questions to jury.
- 3346. — In general.
- 3347. — Interrogatories and special verdict forms.
- 3348. Instructions.
- 3349. Custody and conduct of jury.
- 3350. Post-trial proceedings in general.
- 3351. Mistrial.

8. EVIDENCE AND WITNESSES IN GENERAL.

- 3361. In general.
- 3362. Judicial notice.
- 3363. Presumptions and burden of proof.
- 3364. Reception of evidence.
- 3365. — In general.
- 3366. — Admission or exclusion of evidence in general.
- 3367. — Order of proof.
- 3368. — Reopening case.
- 3369. Relevance.
- 3370. Probative value and prejudicial effect.
- 3371. Best and secondary evidence.
- 3372. Demonstrative evidence.
- 3373. Admissions.

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- 3374. Declarations.
- 3375. Hearsay.
- 3376. Documentary evidence.
- 3377. Parol or extrinsic evidence affecting writings.
- 3378. Witnesses in general.
- 3379. — In general.
- 3380. — Competency.
- 3381. — Examination.
- 3382. — Cross-examination.
- 3383. — Recall, re-examination, and re-cross-examination.
- 3384. — Credibility and impeachment.
- 3385. Opinion evidence in general.
- 3386. Expert evidence and witnesses.
- 3387. — In general.
- 3388. — Competency and qualifications.
- 3389. — Examination.
- 3390. — Cross-examination.
- 3391. — Recall, re-examination, and re-cross-examination.
- 3392. — Credibility and impeachment.
- 3393. Separation and exclusion of witnesses.
- 3394. Number of witnesses.
- 3395. Privileged communications and confidentiality.
- 3396. — In general.
- 3397. — Attorney-client privilege.
- 3398. Self-incrimination.

9. VERDICT AND FINDINGS IN GENERAL.

- 3401. In general.
- 3402. Conclusiveness and effect of verdict or findings in general.
- 3403. Province of, and deference to, lower court in general.
- 3404. Verdict or findings of jury in general.
- 3405. — In general.
- 3406. — Province of, and deference to, jury in general.
- 3407. — Passion, prejudice, or mistake.
- 3408. Verdict or findings of judge in general.
- 3409. — In general.
- 3410. — Province of, and deference to, factfinding judge in general.
- 3411. — Same effect as those of jury.
- 3412. Plenary, free, or independent review.
- 3413. De novo review.

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XVI. REVIEW.(Cont'd)

- 3414. Discretion of lower court; abuse of discretion.
- 3415. Substitution of reviewing court's discretion or judgment.
- 3416. — In general.
- 3417. — Jury as factfinder below.
- 3418. — Judge as factfinder below.
- 3419. Fairness or justice.
- 3420. Reasonableness.
- 3421. — In general.
- 3422. — Jury as factfinder below.
- 3423. — Judge as factfinder below.
- 3424. Review for correctness or error in general.
- 3425. Clear error; "clearly erroneous" standard.
- 3426. — In general.
- 3427. — Jury as factfinder below.
- 3428. — Judge as factfinder below.
- 3429. — What constitutes clear error.
- 3430. Definite or firm conviction of mistake.
- 3431. Manifest or obvious error.
- 3432. — In general.
- 3433. — Jury as factfinder below.
- 3434. — Judge as factfinder below.
- 3435. — What constitutes manifest or obvious error.
- 3436. Plain or palpable error.

10. SUFFICIENCY OF EVIDENCE.

- 3441. In general.
- 3442. Jury as factfinder below in general.
- 3443. Judge as factfinder below in general.
- 3444. Character and amount of evidence in general.
- 3445. — In general.
- 3446. — Any evidence.
- 3447. — Scintilla of evidence.
- 3448. — Some evidence.
- 3449. — Adequate evidence.
- 3450. — Ample evidence.
- 3451. Competent or credible evidence in general.
- 3452. Credibility and number of witnesses.
- 3453. — In general.
- 3454. — Jury as factfinder below.
- 3455. — Judge as factfinder below.

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- 3456. Inferences and conclusions drawn from evidence.
- 3457. — In general.
- 3458. — Reasonableness.
- 3459. Substantial evidence.
- 3460. — In general.
- 3461. — Jury as factfinder below.
- 3462. — Judge as factfinder below.
- 3463. — What constitutes substantial evidence.
- 3464. — Competent or credible evidence.
- 3465. Weight of evidence.
- 3466. — In general.
- 3467. — Province of, and deference to, lower court in general.
- 3468. — Jury as factfinder below.
- 3469. — Judge as factfinder below.
- 3470. — Preponderance or great weight of evidence.
- 3471. — Against weight of evidence.
 - (1). In general.
 - (2). Against preponderance or great weight of evidence.
- 3472. — Clear or plain weight; clearly or plainly contrary.
- 3473. — Manifest weight; manifestly contrary.
- 3474. Conflicting or disputed evidence.
- 3475. — In general.
- 3476. — Province of, and deference to, lower court in general.
- 3477. — Jury as factfinder below.
- 3478. — Judge as factfinder below.
- 3479. — Clear, manifest, or plain error.
- 3480. — Competent or credible evidence.
- 3481. — Reasonable basis or support.
- 3482. — Substantial evidence.
- 3483. — Credibility and number of witnesses.
 - (1). In general.
 - (2). Jury as factfinder below.
 - (3). Judge as factfinder below.
- 3484. Undisputed or uncontradicted evidence.
- 3485. Absence of evidence.
- 3486. — In general.
- 3487. — Absence of competent or credible evidence.

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XVI. REVIEW.(Cont'd)

- 3488. — Total failure of proof.
- 3489. Review for factual or legal sufficiency; “no evidence” review.
- 3490. — In general.
- 3491. — Factual sufficiency in general.
- 3492. — Legal sufficiency or “no evidence” in general.
- 3493. — Jury as factfinder below.
 - (1). In general.
 - (2). Factual sufficiency.
 - (3). Legal sufficiency; “no evidence”.
- 3494. — Judge as factfinder below.
 - (1). In general.
 - (2). Factual sufficiency.
 - (3). Legal sufficiency; “no evidence”.

11. VERDICT, FINDINGS, AND SUFFICIENCY OF EVIDENCE: ADDITIONAL CONSIDERATIONS.

- 3501. In general.
- 3502. Multiple or successive verdicts.
- 3503. Special verdicts.
- 3504. General or special findings.
- 3505. Negative findings.
- 3506. Unchallenged findings.
- 3507. Failure or refusal of lower court to make findings.
- 3508. Implied findings.
- 3509. Proceedings in equity.
- 3510. — In general.
- 3511. — Sufficiency of evidence in general.
- 3512. — Weight of evidence.
- 3513. — Conflicting or disputed evidence.
- 3514. Proceedings before referee, master, commissioner, or auditor.
- 3515. — In general.
- 3516. — Clear, manifest, or plain error.
- 3517. — Sufficiency of evidence.
- 3518. — Approval of trial court.
 - (1). In general.
 - (2). Sufficiency of evidence.
- 3519. — Disapproval of trial court.
- 3520. Proceedings after waiver of jury trial.
- 3521. Proceedings on written evidence.
- 3522. — In general.
- 3523. — Province of, and deference to, lower court in general.
- 3524. — Clear, manifest, or plain error.
- 3525. — Affidavits and depositions.

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- 3526. — Conflicting or disputed evidence.
- 3527. Proceedings on oral evidence; ore tenus proceedings.
- 3528. — In general.
- 3529. — Discretion of lower court; abuse of discretion.
- 3530. — Sufficiency of evidence; clear, manifest, plain, or palpable error.
 - (1). In general.
 - (2). Competent, credible, or substantial evidence.
 - (3). Conflicting or disputed evidence.
- 3531. — Matters of law.
- 3532. — Application of law to evidence or facts.
- 3533. — Undisputed evidence or facts.
- 3534. — Oral evidence in combination with other evidence.

12. JUDGMENT IN GENERAL.

- 3541. In general.
- 3542. Judgment by confession or consent.
- 3543. Judgment by default.
- 3544. Judgment after trial.
- 3545. — In general.
- 3546. — Nonjury trial.
- 3547. Proceedings after judgment in general.

13. SUMMARY JUDGMENT.

- 3551. In general.
- 3552. Deference given to lower court in general.
- 3553. Plenary, free, or independent review.
- 3554. De novo review.
- 3555. Review using standard applied below.
- 3556. Discretion of lower court; abuse of discretion.
- 3557. Review for correctness or error.
- 3558. Review of lower court's proceedings concerning question.

14. TAKING CASE OR QUESTION FROM JURY; JUDGMENT AS A MATTER OF LAW.

- 3561. In general.
- 3562. Preverdict motions; direction of verdict.
- 3563. — In general.
- 3564. — Deference given to lower court in general.

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XVI. REVIEW.(Cont'd)

- 3565. — Plenary, free, or independent review.
- 3566. — De novo review.
- 3567. — Review using standard applied below.
- 3568. — Discretion of lower court; abuse of discretion.
- 3569. — Review for correctness or error.
- 3570. — Sufficiency of evidence.
- 3571. Postverdict motions; judgment notwithstanding verdict (JNOV).
- 3572. — In general.
- 3573. — Deference given to lower court in general.
- 3574. — Plenary, free, or independent review.
- 3575. — De novo review.
- 3576. — Review using standard applied below.
- 3577. — Discretion of lower court; abuse of discretion.
- 3578. — Review for correctness or error.
- 3579. — Sufficiency of evidence.
- 3580. Demurrer to evidence.
- 3581. Dismissal or nonsuit at trial.
- 3582. Judgment on the evidence.
- 3583. Review of lower court's proceedings concerning question.

15. RECONSIDERATION OR REHEARING IN GENERAL.

- 3591. In general.
- 3592. Dismissal or nonsuit.
- 3593. Summary judgment.
- 3594. Taking case or question from jury; judgment as a matter of law.
- 3595. Review of lower court's proceedings concerning question.

16. SETTING ASIDE VERDICT; NEW TRIAL.

- 3601. In general.
- 3602. New trial in general.
- 3603. — In general.
- 3604. — Deference given to lower court in general.
- 3605. — Plenary, free, or independent review.
- 3606. — De novo review.

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- 3607. — Review using standard applied below.
- 3608. — Discretion of lower court; abuse of discretion.
 - (1). In general.
 - (2). Grant of new trial.
 - (3). Denial of new trial.
- 3609. For errors or irregularities.
- 3610. — In general.
- 3611. — Errors of law in general.
- 3612. — Improper jury charge or instructions.
- 3613. — Misconduct of party or counsel.
- 3614. — Misconduct of or affecting jury.
- 3615. For insufficiency of evidence.
- 3616. — In general.
- 3617. — New trial.
 - (1). In general.
 - (2). Grant of new trial.
 - (3). Denial of new trial.
- 3618. For surprise, accident, inadvertence, or mistake.
- 3619. For newly discovered evidence.
- 3620. Setting aside verdict or findings of judge; new trial after bench trial.
- 3621. — In general.
- 3622. — For errors or irregularities.
- 3623. — For insufficiency of evidence.
- 3624. — For surprise, accident, inadvertence, or mistake.
- 3625. — For newly discovered evidence.
- 3626. Review of lower court's proceedings concerning question.

17. RELIEF FROM JUDGMENT OR ORDER.

- 3631. In general.
- 3632. Grant of relief in general.
- 3633. Denial of relief in general.
- 3634. Relief from dismissal or nonsuit.
- 3635. Relief from dismissal or judgment for failure to prosecute.
- 3636. Relief from default judgment.
- 3637. Review of lower court's proceedings concerning question.

18. REMEDIAL MATTERS IN GENERAL.

- 3641. In general.
- 3642. Equitable remedies in general.

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- 3643. Creditors' remedies.
- 3644. — In general.
- 3645. — Prejudgment or provisional remedies in general.
- 3646. — Attachment.
- 3647. — Execution.
- 3648. — Garnishment.
- 3649. — Supplementary proceedings.
- 3650. — Postjudgment discovery.
- 3651. — Remedies against debtor's earnings, wages, and other income.
- 3652. — Collective remedies.
- 3653. Receivers and receivership.
- 3654. Constructive trust.
- 3655. Partition or forced sale of real property.
- 3656. Specific performance.
- 3657. Lis pendens.

19. INJUNCTIVE RELIEF.

- 3661. In general.
- 3662. Granting or refusing.
- 3663. Continuing, vacating, or dissolving.
- 3664. Preliminary injunction; temporary restraining order.

20. MONETARY RELIEF.

- 3671. In general.
- 3672. Damages in general.
- 3673. — In general.
- 3674. — Deference given to lower court in general.
- 3675. — Plenary, free, or independent review.
- 3676. — De novo review.
- 3677. — Review using standard applied below.
- 3678. — Discretion of lower court; abuse of discretion.
- 3679. — Review for correctness or error.
 - (1). In general.
 - (2). Mistake, passion, or prejudice; shocking conscience or sense of justice.
- 3680. — Sufficiency of evidence.
- 3681. Excessive award; remittitur.
- 3682. — In general.

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- 3683. — Mistake, passion, or prejudice; shocking conscience or sense of justice.
- 3684. Inadequate award; additur.
- 3685. — In general.
- 3686. — Mistake, passion, or prejudice; shocking conscience or sense of justice.
- 3687. Particular cases and items.
- 3688. — In general.
- 3689. — General or special damages in general.
- 3690. — Contract cases in general.
- 3691. — Tort cases and personal injuries in general.
- 3692. — Mental or emotional injury; pain and suffering.
- 3693. — Loss of consortium.
- 3694. — Lost wages.
- 3695. — Death.
- 3696. — Injuries to property.
- 3697. — Nominal damages.
- 3698. — Liquidated damages.
- 3699. — Punitive or exemplary damages.
- 3700. Apportionment and contribution.
- 3701. Accounting.
- 3702. Disgorgement.
- 3703. Restitution.
- 3704. Interest.
- 3705. — In general.
- 3706. — Prejudgment interest.
- 3707. — Preverdict interest.
- 3708. Penalties.

21. COSTS AND FEES.

- 3711. In general.
- 3712. Attorney fees.
- 3713. — In general.
- 3714. — Authorization, eligibility, and entitlement in general; prevailing party.
- 3715. — Bad faith or meritless litigation.
- 3716. — Public interest and substantial benefit doctrine; private attorney general.
- 3717. — Items and amount; hours and rates.
- 3718. — Effect of offer of judgment or pretrial deposit or tender.
- 3719. Witness fees.

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22. SUBSTANTIVE MATTERS.

- 3721. In general.
- 3722. Constitutional rights, civil rights, and discrimination in general.
- 3723. — In general.
- 3724. — Arrest and pretrial detention.
- 3725. — Imprisonment and incidents thereof.
- 3726. Torts in general.
- 3727. — In general.
- 3728. — Negligence in general.
- 3729. — Premises liability.
- 3730. — Products liability.
- 3731. — Fraud or misrepresentation.
- 3732. — Libel and slander.
- 3733. — False arrest or imprisonment.
- 3734. — Malicious prosecution and abuse of process.
- 3735. — Other particular torts.
- 3736. Property in general.
- 3737. — In general.
- 3738. — Adverse possession.
- 3739. — Conveyances and deeds.
- 3740. — Covenants.
- 3741. — Easements.
- 3742. — Real property sales; vendor and purchaser.
- 3743. — Real property leases; landlord and tenant.
- 3744. — Common interest communities.
- 3745. — Searches and seizures.
- 3746. Water.
- 3747. Governments and political subdivisions.
- 3748. — In general.
- 3749. — Torts.
- 3750. — Immunity.
- 3751. — Public records or information.
- 3752. Government property, facilities, and funds.
- 3753. Taxation.
- 3754. Labor and employment.
- 3755. — In general.
- 3756. — Public employment in general.
- 3757. — Pensions and benefit plans.
- 3758. — Labor relations.
- 3759. — Wages, hours, and working conditions.
- 3760. — Employment discrimination.
- 3761. Education.

XVI. REVIEW.(Cont'd)

- 3762. — In general.
- 3763. — Employment in education.
- 3764. Elections, voting, and political rights.
- 3765. Contracts.
- 3766. — In general.
- 3767. — Construction, interpretation, and application in general.
- 3768. — Particular cases and contracts.
 - (1). In general.
 - (2). Sales.
 - (3). Leases.
 - (4). Public contracts.
- 3769. — Agreements as to choice of law.
- 3770. — Agreements as to place of bringing suit; forum selection clauses.
- 3771. Trade, business, and finance.
- 3772. — In general.
- 3773. — Financial institutions.
- 3774. — Insurers and insurance.
- 3775. — Mortgages, liens, and security interests.
- 3776. Intellectual property.
- 3777. Animals and plants.
- 3778. — In general.
- 3779. — Agriculture and crops.
- 3780. Health care and medical insurance.
- 3781. Mental health.
- 3782. Public health.
- 3783. Motor vehicles.
- 3784. — In general.
- 3785. — Motor vehicle accidents.
- 3786. — Products liability.
- 3787. Carriers and public utilities.
- 3788. — In general.
- 3789. — Telecommunications.
- 3790. Families and children.
- 3791. Corporations and other organizations.
- 3792. Partnership.

(E) MATERIAL CONSIDERED ON REVIEW.

1. IN GENERAL.

- 3801. In general.
- 3802. Record in general.
- 3803. — In general.
- 3804. — Entire record.
- 3805. — On review of verdict, findings, and sufficiency of evidence.
 - (1). In general.

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- (2). Entire record.
- 3806. Pleadings and evidence.
- 3807. — In general.
- 3808. — Attachments and exhibits.
- 3809. — All or part of evidence.
 - (1). In general.
 - (2). On review of verdict, findings, and sufficiency of evidence.
- 3810. — Improper or erroneously admitted evidence.
- 3811. — Excluded or stricken evidence.
- 3812. — Hearsay.
- 3813. Instructions and jury charge.
- 3814. Verdict and findings.
- 3815. Posttrial material.
- 3816. Evidence or other material not considered below.
- 3817. — In general.
- 3818. — Additional or new pleadings in reviewing court.
- 3819. — Taking judicial notice in reviewing court.
- 3820. — Taking evidence in reviewing court.
- 3821. Amendment in reviewing court of proceedings below.
- 3822. — In general.
- 3823. — As to parties.
- 3824. — As to pleadings.
 - (1). In general.
 - (2). To conform to evidence or correspond with verdict or judgment.
- 3825. Amendments regarded as made by reviewing court.
- 3826. — In general.
- 3827. — As to pleadings in general.
- 3828. — To conform to evidence or correspond with verdict or judgment.
- 3829. Concessions.
- 3830. Consideration of other cases and matters therein.

2. ON REVIEW OF INJUNCTIVE RELIEF.

- 3841. In general.
- 3842. Preliminary injunctive relief; temporary restraining order.

3. ON REVIEW OF DAMAGES OR OTHER MONETARY RELIEF.

- 3851. In general.
- 3852. Consideration of other cases and matters therein.

4. ON REVIEW OF COSTS, FEES, OR SANCTIONS.

- 3856. In general.
- 3857. Discovery sanctions.

(F) PRESUMPTIONS AND BURDENS ON REVIEW.

1. IN GENERAL.

- 3861. In general.
- 3862. Correctness or error.
- 3863. — In general.
- 3864. — Burden of showing correctness or error.
- 3865. Discretion of lower court.
- 3866. — In general.
- 3867. — Abuse of discretion.
- 3868. Matters of law.
- 3869. — In general.
- 3870. — Lower court's knowledge and application of law.
- 3871. — Conclusions of law.
- 3872. Matters of fact.
- 3873. Application of law to facts.
- 3874. Mixed questions of law and fact.

2. PARTICULAR MATTERS AND RULINGS.

- 3881. In general.
- 3882. Grounds, nature, and form of action.
- 3883. — In general.
- 3884. — Set-off, counterclaim, and cross-claim.
- 3885. Procedural matters and rulings in general.
- 3886. Rules of court in general.
- 3887. Motions, hearings, and orders in general.
- 3888. Defenses, objections, and exceptions in general.
- 3889. Dismissal and nonsuit in general.
- 3890. Voluntary dismissal or nonsuit.
- 3891. Failure to prosecute, and dismissal or nonsuit therefor.
- 3892. Pleading.
- 3893. — In general.
- 3894. — Amended and supplemental pleadings.

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XVI. REVIEW.(Cont'd)

- 3895. — Objections and exceptions; demurrer.
- 3896. — Failure to state claim, and dismissal therefor.
- 3897. — Judgment on the pleadings.
- 3898. — Striking out.
- 3899. — Making more definite and certain.
- 3900. — Trial of issue by consent.
- 3901. — Anti-SLAPP laws.
- 3902. Jurisdiction and venue.
- 3903. — In general.
- 3904. — Pleading and dismissal.
- 3905. Conditions precedent.
- 3906. Mootness, ripeness, finality, and prematurity.
- 3907. Parties, process, and appearance.
- 3908. Time for proceedings; limitations and laches.
- 3909. — In general.
- 3910. — Pleading and dismissal.
- 3911. Continuance and stay; consolidation and severance.
- 3912. Reference.
- 3913. Discovery.
- 3914. — In general.
- 3915. — Failure to disclose; sanctions.
- 3916. Judge.
- 3917. Jury.
- 3918. Counsel.
- 3919. Trial.
- 3920. — In general.
- 3921. — Arguments and conduct of counsel.
- 3922. — Submission of issues or questions to jury.
- 3923. — Instructions.
- 3924. — Custody and conduct of jury.
- 3925. — Post-trial proceedings in general.
- 3926. — Mistrial.
- 3927. Evidence and witnesses in general.
- 3928. — In general.
- 3929. — Burden or standard of proof applied below.
- 3930. — Admissibility and reception of evidence.
- 3931. — Documentary evidence.
- 3932. — Witnesses and opinion evidence.

XVI. REVIEW.(Cont'd)

- 3933. — Expert evidence and witnesses.
- 3934. — Privileged communications and confidentiality.
- 3935. Verdict, findings, and sufficiency of evidence.
- 3936. — In general.
- 3937. — Jury as factfinder below in general.
- 3938. — Judge as factfinder below in general.
- 3939. — Review for factual or legal sufficiency; “no evidence” review.
- 3940. — Instructions understood or followed.
- 3941. — Evidence considered or disregarded.
- 3942. — Interrogatories and special verdicts.
- 3943. — Issues decided; theory of verdict or findings.
 - (1). In general.
 - (2). Multiple claims, theories, or defenses; general verdict rule.
- 3944. — Proceedings before referee, master, commissioner, or auditor.
- 3945. — Proceedings on written evidence.
- 3946. Judgment in general.
- 3947. — In general.
- 3948. — Judgment by default.
- 3949. — Judgment by confession or consent.
- 3950. Summary judgment.
- 3951. — In general.
- 3952. — Cross-motions.
- 3953. — Particular cases and contexts.
- 3954. Taking case or question from jury; judgment as a matter of law.
- 3955. — In general.
- 3956. — Preverdict motions; direction of verdict.
- 3957. — Postverdict motions; judgment notwithstanding verdict (JNOV).
- 3958. — Demurrer to evidence.
- 3959. — Dismissal or nonsuit at trial.
- 3960. — Judgment on the evidence.
- 3961. Reconsideration or rehearing.
- 3962. Setting aside verdict; new trial.
- 3963. Relief from judgment or order.
- 3964. — In general.

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XVI. REVIEW.(Cont'd)

- 3965. — Relief from default judgment.
- 3966. Remedial matters in general.
- 3967. — In general.
- 3968. — Creditors' remedies.
- 3969. — Receivers and receivership.
- 3970. Injunctive relief.
- 3971. — In general.
- 3972. — Preliminary injunction; temporary restraining order.
- 3973. Monetary relief; damages.
- 3974. — In general.
- 3975. — Excessive award; remittitur.
- 3976. — Inadequate award; additur.
- 3977. — Punitive or exemplary damages.
- 3978. — Interest.
- 3979. Costs and fees.
- 3980. — In general.
- 3981. — Attorney fees.
- 3982. — Witness fees.
- 3983. Indigent parties; proceedings in forma pauperis.
- 3984. Sanctions in general.
- 3985. Abusive, vexatious, or harassing litigation.
- 3986. Compromise and settlement.
- 3987. Proceedings for review.
- 3988. — In general.
- 3989. — Making and contents of bill of exceptions, case, or statement of facts.
- 3990. — Making and contents of record.

3. SILENT OR INADEQUATE RECORD.

- 4001. In general.
- 4002. Completeness; partial or incomplete record.
- 4003. Ambiguities in record.
- 4004. Particular matters and rulings.
- 4005. — In general.
- 4006. — Pleading, dismissal, and nonsuit.
- 4007. — Exhibits and documentary evidence.
- 4008. — Submission of issues or questions to jury; instructions.
- 4009. — Verdict, findings, and sufficiency of evidence.
 - (1). In general.

XVI. REVIEW.(Cont'd)

- (2). Absence of findings; assumed or implied findings.
- (3). Request for findings; failure to make request; waiver.
- 4010. — Summary judgment.
- 4011. — Taking case or question from jury; judgment as a matter of law.
- 4012. — Reconsideration or rehearing; setting aside verdict; new trial.
- 4013. — Remedial matters.
- 4014. — Costs, fees, and sanctions.
- 4015. Appeal on judgment roll.

4. PROCEEDINGS ON ORAL EVIDENCE; ORE TENUS PROCEEDINGS.

- 4021. In general.
- 4022. Presumption of correctness in general.
- 4023. Burden on review in general.
- 4024. Matters of law.
- 4025. Application of law to evidence or facts.
- 4026. Undisputed evidence or facts.
- 4027. Oral evidence in combination with other evidence.
- 4028. Silent or inadequate record; implied findings.

(G) TRIAL ON REVIEW.

- 4031. In general.
- 4032. Retrial on review in general.
- 4033. Trial de novo on review in general.
- 4034. Cases or matters triable in reviewing court; grounds for trial de novo.
- 4035. — In general.
- 4036. — In equitable proceedings.
- 4037. De novo proceedings after error is found by reviewing court.
- 4038. — In general.
- 4039. — Errors of law or fact in general.
- 4040. — Errors as to instructions.
- 4041. — Errors as to damages and apportionment of fault.
- 4042. Proceedings to obtain trial on evidence taken in lower court.
- 4043. — In general.
- 4044. — Requisites of record in general.
- 4045. — Necessity or requisites of certificate of evidence.
- 4046. — Time of certifying or filing evidence.

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- 4047. — Necessity and requisites of statement of case.
- 4048. Scope of inquiry.
- 4049. — In general.
- 4050. — Effect of findings below.
- 4051. — Effect of errors below.
- 4052. Amendments.
- 4053. Additional or new pleadings.
- 4054. Evidence.
- 4055. Conduct of trial.

(H) THEORY AND GROUNDS OF DECISION BELOW AND ON REVIEW.

- 4061. In general.
- 4062. Narrowest or best possible grounds.
- 4063. Grounds not considered or relied upon below.
- 4064. Correct decision below based on incorrect grounds or reasoning.
- 4065. Particular orders or rulings below, theory and grounds supporting.
- 4066. — In general.
- 4067. — Parties; class certification.
- 4068. — Pleadings.
- 4069. — Dismissal or nonsuit.
- 4070. — Evidence.
- 4071. — Instructions.
- 4072. — Verdict, findings, sufficiency of evidence, and judgment.
 - (1). In general.
 - (2). Default judgment.
 - (3). Summary judgment.
- 4073. — Taking case or question from jury; judgment as a matter of law.
- 4074. — Reconsideration or rehearing; setting aside verdict; new trial.
- 4075. — Relief from judgment or order.
 - (1). In general.
 - (2). Relief from default judgment.
- 4076. — Injunctive relief.
- 4077. — Costs, fees, and sanctions.

(I) RULINGS BELOW AS LAW OF THE CASE ON REVIEW.

- 4081. In general.
- 4082. Rulings not challenged or appealed.
- 4083. Instructions.

(J) WAIVER OF ERROR IN REVIEWING COURT.

- 4091. In general.
- 4092. Implied waiver in general.
- 4093. Concessions, admissions, and agreements.
- 4094. Failure to assert or adequately discuss error.
- 4095. — In general.
- 4096. — Briefs and argument in general.
- 4097. — Citation to facts and legal authority in general.
- 4098. — Particular cases and contexts.
 - (1). In general.
 - (2). Jurisdiction.
 - (3). Pleadings.
 - (4). Evidence and trial.
 - (5). — In general.
 - (6). — Sufficiency of evidence; verdict, findings, and judgment.
 - (7). Summary judgment.
 - (8). Setting aside verdict; new trial.
 - (9). Damages or other relief.
 - (10). Costs and fees.
 - (11). Pro se litigants.
- 4099. Other conduct or proceedings inconsistent with objection.
- 4100. Express waiver.

(K) REVIEW OF DECISIONS OF INTERMEDIATE COURTS.

- 4101. In general.
- 4102. Scope and extent of review.
- 4103. — In general.
- 4104. — Questions of law or fact.
- 4105. — Discretion of intermediate or lower court.
- 4106. — Free, independent, or de novo review.
- 4107. Nature and grounds of intermediate court's decision, effect of.
- 4108. — In general.
- 4109. — Questions not raised or passed upon in intermediate court.
- 4110. — Affirmance by intermediate court.
- 4111. — Reversal by intermediate court.
- 4112. — Necessity and effect of findings by intermediate court.
- 4113. Cross-appeal.
- 4114. Permissive or discretionary review.
- 4115. — In general.

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XVI. REVIEW.(Cont'd)

- 4116. — Cases or questions reported, reserved, or certified.
- 4117. Interlocutory rulings and appeals.
- 4118. Presumptions and burdens on review.

(L) SUBSEQUENT REVIEW.

- 4121. In general.
- 4122. Scope and extent of subsequent review in general.
- 4123. Subsequent review after remand in general.
- 4124. — In general.
- 4125. — Compliance with mandate or directions.
- 4126. Determination on prior review, effect on subsequent review.
- 4127. — In general.
- 4128. — As law of the case in general.
- 4129. — Persons concluded by prior determination.
- 4130. — Questions concluded by prior determination.
 - (1). In general.
 - (2). Grounds of claim or defense.
 - (3). Validity and interpretation of instrument.
 - (4). Constitutional questions.
 - (5). Jurisdiction and venue.
 - (6). Pleadings.
 - (7). Evidence.
 - (8). Trial, verdict, findings, and judgment.
 - (9). Amount of recovery or extent of relief.
 - (10). Costs and fees.
- 4131. — Prior determination not on merits.
- 4132. — Prior determination on interlocutory review.
 - (1). In general.
 - (2). Preliminary injunction; temporary restraining order.
- 4133. — Correctness of prior determination.
- 4134. — Effect of prior determination by higher court on subsequent review by intermediate court.

XVI. REVIEW.(Cont'd)

- 4135. — Effect of prior determination by intermediate court on subsequent review by higher court.
- 4136. Matters which could have been raised or determined on prior review.
- 4137. Matters expressly or implicitly determined on prior review.
- 4138. Matters arising after prior review.
- 4139. — In general.
- 4140. — New or different facts; changes to pleadings or evidence.
- 4141. — Change in law.
- 4142. — Change in court.

XVII. HARMLESS AND REVERSIBLE ERROR.

(A) IN GENERAL.

- 4151. In general.
- 4152. Substantiality; substantial error.
- 4153. Materiality; material error.
- 4154. Prejudice; prejudicial error.
- 4155. — In general.
- 4156. — Prejudice and substantiality; prejudice and materiality.
- 4157. Relation between error and final outcome or result.
- 4158. — In general.
- 4159. — Outcome or result correct on merits.
- 4160. — Party not entitled to succeed in any event.
- 4161. Technical or formal error.
- 4162. Structural, fundamental, or constitutional error.
- 4163. Justice or injustice.
- 4164. — In general.
- 4165. — Substantial justice or injustice.
- 4166. — Miscarriage of justice.
- 4167. Discretion of lower court; abuse of discretion.

(B) PARTICULAR ERRORS.

1. IN GENERAL.

- 4171. In general.
- 4172. Nature and form of remedy in general.
- 4173. Preliminary proceedings in general.
- 4174. Dismissal and nonsuit in general.
- 4175. Voluntary dismissal or nonsuit.

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XVII. HARMLESS AND REVERSIBLE ERROR.(Cont'd)

- 4176. Failure to prosecute, and dismissal or nonsuit therefor.
- 4177. Dockets and case management.
- 4178. Conferences and scheduling orders.
- 4179. Motions in limine.
- 4180. Jurisdiction.
- 4181. Venue.
- 4182. Forum non conveniens.
- 4183. What law governs.
- 4184. Parties.
- 4185. — In general.
- 4186. — Standing.
- 4187. — New parties; joinder.
- 4188. — Dismissal of parties.
- 4189. — Intervention.
- 4190. — Class actions.
- 4191. Process and appearance.
- 4192. Time for proceedings; limitations and laches.
- 4193. Continuance and stay.
- 4194. Consolidation and severance.
- 4195. Reference.
- 4196. Judge.
- 4197. — In general.
- 4198. — Bias, recusal, and disqualification.
- 4199. Jury.
- 4200. — In general.
- 4201. — Right to jury trial.
- 4202. — Selection and impaneling of jurors.
 - (1). In general.
 - (2). Sustaining challenge or excusing juror.
 - (3). Overruling challenge or declining to excuse juror.
- 4203. Counsel.
- 4204. — In general.
- 4205. — Pro hac vice.
- 4206. — Disqualification.
- 4207. — Withdrawal and substitution.
- 4208. Indigent parties; proceedings in forma pauperis.
- 4209. — In general.
- 4210. — Counsel.
- 4211. Sanctions in general.
- 4212. Abusive, vexatious, or harassing litigation.

XVII. HARMLESS AND REVERSIBLE ERROR.(Cont'd)

- 4213. Compromise and settlement.
 - 4214. — In general.
 - 4215. — Class actions.
 - 4216. Proceedings for review.
2. PLEADING.
- 4221. In general.
 - 4222. Complaint, petition, or other initial pleading.
 - 4223. Answer or other responsive pleading.
 - 4224. Amended pleadings.
 - 4225. — In general.
 - 4226. — Complaint, petition, or other initial pleading.
 - 4227. — Answer or other responsive pleading.
 - 4228. — To conform to proof.
 - 4229. Supplemental pleadings.
 - 4230. Signature and verification.
 - 4231. Demurrers and exceptions.
 - 4232. — In general.
 - 4233. — Sustaining demurrer or exception.
 - (1). In general.
 - (2). To answer or other responsive pleading.
 - (3). Error cured by amendment.
 - 4234. — Overruling demurrer or exception.
 - (1). In general.
 - (2). To answer or other responsive pleading.
 - (3). Error cured by amendment.
 - 4235. Failure to state claim, and dismissal therefor.
 - 4236. — In general.
 - 4237. — Sustaining motion.
 - 4238. — Denial of motion.
 - 4239. — Effect of trial or determination.
 - 4240. Judgment on the pleadings.
 - 4241. Striking out.
 - 4242. — In general.
 - 4243. — Sustaining motion.
 - 4244. — Denial of motion.
 - 4245. — Striking out part of pleading.
 - 4246. — Effect of trial or determination.
 - 4247. Making more definite and certain.
 - 4248. Election between counts, causes of action, or defenses.

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XVII. HARMLESS AND REVERSIBLE ERROR.(Cont'd)

- 4249. Withdrawal.
- 4250. Anti-SLAPP laws.
- 4251. Variance between pleadings and proof.

3. DISCOVERY.

- 4261. In general.
- 4262. Depositions.
- 4263. Interrogatories.
- 4264. Production of documents and other tangible things.
- 4265. Physical or mental examination of person.
- 4266. Admissions on request.
- 4267. Subpoena.
- 4268. Protective order.
- 4269. Work product privilege; trial preparation materials.
- 4270. Failure to disclose; sanctions.

4. CONDUCT OF TRIAL OR HEARING IN GENERAL.

- 4281. In general.
- 4282. Separate trials in same cause; bifurcation.
- 4283. Right to open and close.
- 4284. View and inspection.
- 4285. Remarks and conduct of judge.
- 4286. Mistrial.

5. EVIDENCE IN GENERAL.

- 4291. In general.
- 4292. Judicial notice.
- 4293. Presumptions and burden of proof.
- 4294. Striking out or withdrawal.
- 4295. Order of proof, rebuttal, and reopening case.

6. WITNESSES IN GENERAL.

- 4301. In general.
- 4302. Competency.
- 4303. Form of question.
- 4304. — In general.
- 4305. — Leading questions.
- 4306. Refreshing memory of witness.
- 4307. Error in question cured by answer or failure to answer.
- 4308. Cross-examination and re-examination.
- 4309. Credibility, impeachment, contradiction, and corroboration.

XVII. HARMLESS AND REVERSIBLE ERROR.(Cont'd)

- 4310. Separation and exclusion of witnesses.
- 4311. Number of witnesses.
- 4312. Privileged communications and confidentiality.
- 4313. — In general.
- 4314. — Attorney-client privilege.
- 4315. Self-incrimination.

7. ADMISSION OF EVIDENCE.

- 4321. In general.
- 4322. Relevancy, competency, and materiality of evidence in general.
- 4323. Particular cases or issues, evidence relating to.
- 4324. — In general.
- 4325. — Negligence and torts in general.
- 4326. — Contracts in general.
- 4327. — Labor and employment.
- 4328. — Insurance.
- 4329. — Automobiles, carriers, and highways.
- 4330. — Damages and amount of recovery.
- 4331. Particular types of evidence.
- 4332. — In general.
- 4333. — Best and secondary evidence.
- 4334. — Demonstrative evidence.
- 4335. — Admissions, declarations, and hearsay.
- 4336. — Documentary evidence.
- 4337. — Parol or extrinsic evidence affecting writings.
- 4338. — Opinions and conclusions in general.
- 4339. — Expert evidence.
- 4340. Facts otherwise established.
- 4341. — In general.
- 4342. — By undisputed facts or evidence thereof.
- 4343. — By admission of facts.
- 4344. Same or similar evidence otherwise admitted; cumulative evidence.
- 4345. — In general.
- 4346. — Particular cases.
- 4347. Error cured.
- 4348. — In general.
- 4349. — By evidence subsequently admitted.

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XVII. HARMLESS AND REVERSIBLE ERROR.(Cont'd)

- 4350. — By withdrawal or striking out.
- 4351. — By jury instructions.
 - (1). In general.
 - (2). Instructions to disregard.
 - (3). Instructions limiting scope of evidence.
- 4352. Evidence admitted without preliminary proof.
- 4353. Evidence in nonjury trials.
- 4354. Relation between error and final outcome or result.
- 4355. — In general.
- 4356. — Particular cases or issues.
- 4357. Party not entitled to succeed in any event.

8. EXCLUSION OF EVIDENCE.

- 4361. In general.
- 4362. Relevancy, competency, and materiality of excluded evidence in general.
- 4363. Particular cases or issues, exclusion of evidence relating to.
- 4364. — In general.
- 4365. — Negligence and torts in general.
- 4366. — Contracts in general.
- 4367. — Labor and employment.
- 4368. — Insurance.
- 4369. — Automobiles, carriers, and highways.
- 4370. — Damages and amount of recovery.
- 4371. Particular types of excluded evidence.
- 4372. — In general.
- 4373. — Best and secondary evidence.
- 4374. — Demonstrative evidence.
- 4375. — Admissions, declarations, and hearsay.
- 4376. — Documentary evidence.
- 4377. — Parol or extrinsic evidence affecting writings.
- 4378. — Opinions and conclusions in general.
- 4379. — Expert evidence.
- 4380. Facts otherwise established.
- 4381. — In general.
- 4382. — By undisputed facts or evidence thereof.
- 4383. — By admission of facts.

XVII. HARMLESS AND REVERSIBLE ERROR.(Cont'd)

- 4384. Same or similar evidence otherwise admitted; cumulative evidence.
- 4385. — In general.
- 4386. — Other testimony of same witness.
- 4387. — Similar testimony of other witnesses.
- 4388. Erroneous exclusion cured.
- 4389. — In general.
- 4390. — By jury instructions.
- 4391. Excluded evidence insufficient or improper for purpose offered.
- 4392. Evidence excluded in nonjury trials.
- 4393. Relation between excluded evidence and final outcome or result.
- 4394. — In general.
- 4395. — Particular cases or issues.
- 4396. Party not entitled to succeed in any event.

9. ARGUMENTS AND CONDUCT OF COUNSEL.

- 4401. In general.
- 4402. Particular arguments or conduct.
- 4403. — In general.
- 4404. — Opening statement in general.
- 4405. — Presentation of evidence in general.
- 4406. — Stating or reading and commenting on proceedings in cause.
- 4407. — Matters not sustained by evidence.
- 4408. — Comments on evidence or witnesses.
- 4409. — Comments on failure to produce evidence or call witnesses.
- 4410. — Comments on character or conduct of parties or counsel.
- 4411. — Appeals to sympathy or prejudice.
- 4412. — Reference to insurance or other indemnity.
- 4413. Refusal of court to permit argument or conduct.
- 4414. Failure of court to restrain erroneous argument or conduct.
- 4415. Relation between error and final outcome or result.

30. APPEAL AND ERROR

10. SUBMISSION OF ISSUES OR QUESTIONS TO JURY.

- 4421. In general.
- 4422. Interrogatories and special verdict forms.
- 4423. Failure or refusal to submit issues.
- 4424. Withdrawal of questions from jury.
- 4425. Questions of law.
- 4426. Immaterial issues.

11. INSTRUCTIONS.

- 4431. In general.
- 4432. Nature of defect in general.
- 4433. Form and language in general.
- 4434. Applicability of instructions to case in general.
- 4435. — In general.
- 4436. — Abstract propositions.
- 4437. Particular cases or issues, instructions relating to.
- 4438. — In general.
- 4439. — Negligence and torts in general.
- 4440. — Contracts in general.
- 4441. — Labor and employment.
- 4442. — Insurance.
- 4443. — Automobiles and highways.
 - (1). In general.
 - (2). Passengers, pedestrians, and children in general.
 - (3). Motorcycles.
 - (4). Bicycles.
- 4444. — Carriers and railroads.
- 4445. — Damages and amount of recovery.
- 4446. Evidence and witnesses, instructions relating to.
- 4447. — In general.
- 4448. — Presumptions and burden of proof.
- 4449. — Comment on evidence; invading province of jury.
- 4450. Excluding or ignoring issues, defenses, or evidence.
- 4451. Number of instructions; conflict or repetition.
- 4452. Relation between error and final outcome or result.
- 4453. — In general.
- 4454. — Finding on one of several issues; “two-issue” rule.

XVII. HARMLESS AND REVERSIBLE ERROR.(Cont'd)

- 4455. — Damages and amount of recovery.
- 4456. Party not entitled to succeed in any event.
- 4457. Failure or refusal to instruct.
- 4458. — In general.
- 4459. — Relation between error and final outcome or result in general.
- 4460. — Particular cases or issues.
 - (1). In general.
 - (2). Negligence and torts in general.
 - (3). Contracts in general.
 - (4). Labor and employment.
 - (5). Insurance.
 - (6). Automobiles and highways.
 - (7). Carriers and railroads.
 - (8). Damages and amount of recovery.

12. CONDUCT AND DELIBERATIONS OF JURY.

- 4471. In general.
- 4472. Taking papers and articles to jury room.
- 4473. Recalling jury and further instructions.

13. VERDICT, FINDINGS, AND SUFFICIENCY OF EVIDENCE.

- 4481. In general.
- 4482. Verdict or findings of jury in general.
- 4483. Verdict or findings of court or referee in general.
- 4484. Particular cases.
- 4485. — In general.
- 4486. — Tort cases.
- 4487. — Contract cases.
- 4488. Conflicting verdicts or findings; inconsistency.
- 4489. Special verdicts or findings.
- 4490. Failure or refusal of lower court to make findings.
- 4491. — In general.
- 4492. — Failure or refusal to find on part of issues.
- 4493. Delay in making findings.
- 4494. Findings without evidence.
- 4495. Unnecessary or irrelevant findings.

30. APPEAL AND ERROR

14. CONCLUSIONS OF LAW.

- 4501. In general.
- 4502. Confusion of findings and conclusions.

15. JUDGMENT.

- 4511. In general.
- 4512. Summary judgment.
- 4513. Default judgment.
- 4514. Formal requisites; entry, record, and docketing.
- 4515. Parties liable.
- 4516. Proceedings after judgment in general.

16. TAKING CASE OR QUESTION FROM JURY; JUDGMENT AS A MATTER OF LAW.

- 4521. In general.
- 4522. Preverdict motions; direction of verdict.
- 4523. Postverdict motions; judgment notwithstanding verdict (JNOV).
- 4524. Demurrer to evidence.
- 4525. Dismissal or nonsuit at trial.
- 4526. Judgment on the evidence.

17. RECONSIDERATION OR REHEARING.

- 4531. In general.
- 4532. Setting aside verdict; new trial.

18. RELIEF FROM JUDGMENT OR ORDER.

- 4541. In general.
- 4542. Relief from default judgment.

19. REMEDIAL MATTERS.

- 4551. In general.
- 4552. Creditors' remedies.
- 4553. Injunctive relief.
- 4554. — In general.
- 4555. — Preliminary injunction; temporary restraining order.
- 4556. Monetary relief; damages.
- 4557. — In general.
- 4558. — Excessive award; remittitur.
- 4559. — Inadequate award; additur.
- 4560. — Punitive or exemplary damages.

20. COSTS AND FEES.

- 4571. In general.
- 4572. Attorney fees.

(C) CUMULATIVE ERROR.

- 4581. In general.
- 4582. Particular cases and contexts.

(D) ERRORS FAVORABLE TO PARTY COMPLAINING.

- 4591. In general.
- 4592. Pleadings and rulings thereon.
- 4593. Rulings as to evidence.
- 4594. Submission of issues or questions to jury.
- 4595. Instructions.
- 4596. Verdict, findings, and judgment.
- 4597. Form of recovery and extent of relief.
- 4598. Post-trial proceedings.

(E) PRESUMPTIONS AND BURDENS AS TO HARMLESS AND REVERSIBLE ERROR.

- 4601. In general.
- 4602. Rulings as to evidence.
- 4603. Instructions.

XVIII. DETERMINATION AND DISPOSITION OF CAUSE.

(A) IN GENERAL.

- 4611. In general.
- 4612. On review of intermediate court in general.
- 4613. As to parties not appealing or complaining in general.
- 4614. Relief not requested by parties in general.
- 4615. Findings and conclusions by reviewing court.
- 4616. — In general.
- 4617. — Authority to find facts.
- 4618. — Conclusions of law.
- 4619. Effect of change in law.
- 4620. Effect of change in facts.
- 4621. Effect of death or change of parties.
- 4622. Effect of divided court.

(B) AFFIRMANCE.

- 4631. In general.
- 4632. On motion in general.
- 4633. Insufficient presentation of case or questions.
- 4634. Error not shown.
- 4635. — In general.

30. APPEAL AND ERROR

XVIII. DETERMINATION AND DISPOSITION OF CAUSE.(Cont'd)

- 4636. — As to part of grounds of decision; “two-issue” rule.
- 4637. Defects or errors on part of appellant.
- 4638. Reversal ineffectual or not beneficial.
- 4639. Conditional affirmance.
- 4640. Effect of affirmance.

(C) MODIFICATION.

1. IN GENERAL.

- 4651. In general.
- 4652. On motion in general.
- 4653. Amendment of defects and correction of errors.
- 4654. Modifying judgment, decree, or order.
- 4655. — In general.
- 4656. — Injunction.

2. MODIFICATION AS TO AMOUNT OR EXTENT OF RECOVERY.

- 4661. In general.
- 4662. Reducing amount of recovery; remittitur.
- 4663. Increasing amount of recovery; additur.
- 4664. Interest.
- 4665. Costs and fees.

(D) REVERSAL.

- 4671. In general.
- 4672. On motion in general.
- 4673. Particular errors and defects.
- 4674. — In general.
- 4675. — Jurisdiction.
- 4676. — Pleadings.
- 4677. — Admission or exclusion of evidence.
- 4678. — Instructions.
- 4679. — Verdict, findings, and conclusions.
- 4680. — Judgments and orders.
- 4681. — Taking case or question from jury; judgment as a matter of law.
- 4682. — Setting aside verdict; new trial.
- 4683. — Interlocutory judgments and orders.
- 4684. Amount or extent of recovery.
- 4685. — In general.
- 4686. — Nominal damages.

XVIII. DETERMINATION AND DISPOSITION OF CAUSE.(Cont'd)

- 4687. — Punitive or exemplary damages.
- 4688. — Interest.
- 4689. — Costs and fees.
- 4690. Reversal in part.
- 4691. — In general.
- 4692. — As to damages and costs.
- 4693. Reversal as to one or more coparties.
- 4694. — In general.
- 4695. — As to parties not appealing.
- 4696. Conditional reversal.
- 4697. Effect of reversal.
- 4698. — In general.
- 4699. — Effect on dependent judgments or proceedings.
- 4700. — Rights of third persons and parties not before appellate court.

(E) RENDITION OF JUDGMENT BY REVIEWING COURT.

- 4711. In general.
- 4712. Rendition after reversal in general.
- 4713. Particular cases and contexts.
- 4714. — In general.
- 4715. — Evidence, verdict, and findings.
- 4716. — Nonjury trials.
- 4717. — Proceedings in equity.
- 4718. — Summary judgment.
- 4719. Rendition after affirmance.
- 4720. Rendition after modification.
- 4721. Rendition after reviewing court conducts de novo proceedings upon finding error.
- 4722. Time and mode of rendition.
- 4723. Form and requisites.
- 4724. Entry and record.
- 4725. — In general.
- 4726. — Entry nunc pro tunc.
- 4727. Amendment, modification, or setting aside.

(F) DIRECTING NEW TRIAL OR OTHER FURTHER PROCEEDINGS IN LOWER COURT; REMAND.

- 4731. In general.
- 4732. Remand without decision in general.
- 4733. Particular errors and defects warranting further proceedings below.
- 4734. — In general.

30. APPEAL AND ERROR

XVIII. DETERMINATION AND DISPOSITION OF CAUSE.(Cont'd)

- 4735. — Issues not addressed below in general.
- 4736. — Applicable legal theory or standard in general.
- 4737. — Parties.
- 4738. — Pleadings.
- 4739. — Right to jury trial; selection of jurors.
- 4740. — Course and conduct of trial.
- 4741. — Sufficiency of evidence.
- 4742. — Verdict, findings, and judgment.
- 4743. — Summary judgment.
- 4744. — Taking case or question from jury; judgment as a matter of law.
- 4745. — Setting aside verdict; new trial.
- 4746. — Damages or other relief.
- 4747. — Costs and fees.
- 4748. — Transcript, record, and statement of facts.
- 4749. Directing further proceedings below on certain issues only; limited or partial remand.
- 4750. — In general.
- 4751. — Particular issues.
 - (1). In general.
 - (2). Damages or other relief.
 - (3). Costs and fees.
- 4752. Granting leave to amend.
- 4753. Ordering reference or recommittal to referee.
- 4754. Directing judgment in lower court.
- 4755. — In general.
- 4756. — Judgment in conformity to verdict or findings.
- 4757. — Judgment of dismissal.
- 4758. Directing judgment or further proceedings after affirmance.
- 4759. Directing judgment or further proceedings after modification.

(G) COMPELLING OR DIRECTING RESTITUTION.

- 4771. In general.
- 4772. After modification.
- 4773. After reversal.

(H) MANDATE OR ORDER OF REVIEWING COURT.

- 4781. In general.
- 4782. Necessity.

XVIII. DETERMINATION AND DISPOSITION OF CAUSE.(Cont'd)

- 4783. Making and issuance.
- 4784. Payment of fees or costs.
- 4785. Form and requisites.
- 4786. Transmission and filing in lower court.

(I) EFFECT IN LOWER COURT OF DECISION OF REVIEWING COURT.

1. IN GENERAL.

- 4791. In general.
- 4792. Mandate or order in general.
- 4793. Opinion of reviewing court in general.
- 4794. Particular cases and decisions.

2. DECISION OF REVIEWING COURT AS LAW OF THE CASE IN LOWER COURT.

- 4801. In general.
- 4802. Mandate rule in general.
- 4803. Particular cases and decisions.
- 4804. Effect of change in facts.
- 4805. Effect of change in law.

(J) COURSE AND CONDUCT OF FURTHER PROCEEDINGS IN LOWER COURT.

- 4811. In general.
- 4812. Powers and duties of lower court.
- 4813. — In general.
- 4814. — Jurisdiction of lower court after remand.
- 4815. — Compliance with mandate or directions.
- 4816. — Opening, vacating, modification, or amendment of judgment or order.
- 4817. — Amendment of pleadings.
 - (1). In general.
 - (2). Matters which may be presented by new or amended pleadings.
- 4818. — Amendment as to parties.
- 4819. — Granting new trial or rehearing.
- 4820. Proceedings after remand.
- 4821. — In general.
- 4822. — Time to proceed after remand.
- 4823. — Dismissal or nonsuit after remand.
- 4824. — Proceedings relating to reference.
- 4825. Enforcement of judgment or order affirmed.
- 4826. Interest on judgment affirmed.
- 4827. Enforcement of judgment of appellate court.

31. APPEARANCE

XVIII. DETERMINATION AND DISPOSITION OF CAUSE.(Cont'd)

- 4828. Rendition and entry of judgment or order as directed.
- 4829. — In general.
- 4830. — Allowance of damages, interest, and costs.
- 4831. Making or compelling restitution.
- 4832. New trial.
- 4833. — In general.
- 4834. — Preliminary proceedings.
- 4835. — Scope of issues.
 - (1). In general.
 - (2). Scope of decision of appellate court.
 - (3). Directions in remittitur.
- 4836. — Conduct of trial.
- 4837. — Evidence.
- 4838. — Instructions to jury.
- 4839. Failure to obey mandate or follow decision of appellate court.

(K) JURISDICTION AND PROCEEDINGS OF REVIEWING COURT AFTER REMAND.

- 4841. In general.
- 4842. Recall or return of cause from lower court.
- 4843. Amendment or modification of judgment.
- 4844. Amendment or correction of mandate or remittitur.

XIX. LIABILITIES ON BONDS AND UNDERTAKINGS.

- 4851. In general.
- 4852. Discharge of sureties.
- 4853. Accrual or release of liability by breach or fulfillment of conditions.
- 4854. — In general.
- 4855. — Dismissal, quashing, or vacation of proceeding.
- 4856. — Affirmance or reversal of judgment or order.
- 4857. Extent of liability.
- 4858. — In general.
- 4859. — Damages.
- 4860. — Interest.
- 4861. — Costs and fees.
- 4862. Payment and distribution among persons entitled.

XIX. LIABILITIES ON BONDS AND UNDERTAKINGS.(Cont'd)

- 4863. Judgment against sureties in reviewing court.
- 4864. Summary remedies.
- 4865. Actions.
- 4866. — In general.
- 4867. — Right of action and form of remedy.
- 4868. — Conditions precedent.
- 4869. — Defenses.
- 4870. — Jurisdiction and venue.
- 4871. — Time to sue; limitations.
- 4872. — Parties.
- 4873. — Pleading.
- 4874. — Evidence.
- 4875. — Trial, judgment, and review.

31. APPEARANCE

SUBJECTS INCLUDED

Acts or proceedings by which parties to civil actions in general place themselves before the court, personally or by representation

Nature, requisites and validity of entry of notice of appearance, and filing and service thereof

General or special appearance; what constitutes and operation and effect thereof as submission to jurisdiction and waiver of objections thereto, or of objections to process or service thereof

Withdrawal of or setting aside appearance

Effect of failure to appear

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Attorney's authority to appear, see ATTORNEY AND CLIENT

Default judgment on failure to appear, and opening default, see JUDGMENT

Intervention in actions by persons not parties, see PARTIES

Justices of the peace, appearance in proceedings before, see JUSTICES OF THE PEACE

31. APPEARANCE

Particular classes of persons, appearance by, see INFANTS, CORPORATIONS AND BUSINESS ORGANIZATIONS and other specific topics

Particular classes of proceedings, appearance in, see CREDITORS' REMEDIES and other specific topics

1. Nature of proceeding.
2. Right of defendant to appear.
3. Authority to enter appearance for another.
4. Time for appearance.
5. Entry and record of appearance.
6. Notice of retainer and appearance.
7. Proceedings constituting appearance.
8. — In general.
 - (1). In general.
 - (2). Acceptance or admission of service.
 - (3). Filing plea, answer, or demurrer.
 - (4). Motions.
 - (5). Appearance as witness.
 - (6). Appearance by stipulation.
 - (7). Appearance in attachment or other collateral proceedings.
 - (8). Proceedings constituting an appearance after judgment.
9. — General or special appearance.
 - (1). In general.
 - (2). Objections to jurisdiction in general.
 - (3). Objections relating to process or service.
 - (4). Filing plea, answer, or demurrer.
 - (5). Motions in general.
 - (6). Petition for removal to federal court.
 - (7). Appearance in attachment or other collateral proceedings.
 - (8). Proceedings constituting a general appearance after judgment.
10. — General appearance after special appearance.
11. Operation and effect in general.
 - 11.1. — In general.
12. — Relation of party to cause in general.
13. — Rights acquired by defendant.
14. — Effect as to nature and extent of remedy.
15. — Effect of unauthorized appearance.
16. Jurisdiction acquired.

17. — In general.
18. — Of cause of action.
19. — Of the person.
 - (1). In general.
 - (2). By demurrer.
 - (3). Special appearance.
 - (4). Appearance by nonresident.
 - (5). Contemporaneous plea or objection to jurisdiction and to the merits.
 - (6). Appearance after change of venue.
20. Waiver of process or notice.
21. Waiver of objections.
22. — In general.
23. — Venue or change of venue.
24. — Defects in process or service.
 - (1). In general.
 - (2). Formal requisites of writ in general.
 - (3). Signing.
 - (4). Error as to time when writ is returnable.
 - (5). Defects in service in general.
 - (6). Filing or service of complaint or declaration.
 - (7). Service by publication.
 - (8). Time of service.
 - (9). Service procured by fraud.
 - (10). Motions.
 - (11). Defects in return.
 - (12). Effect of special appearance.
 - (13). Effect of general appearance after special appearance.
25. — Defects or irregularities in pleading or other proceedings.
26. Effect of appearance after judgment.
27. Withdrawal.
28. Setting aside or striking out.
29. Failure to appear.

34. ARMED SERVICES

SUBJECTS INCLUDED

Air, land and naval forces of the general government

34. ARMED SERVICES

Militia called into service of the general government and volunteers

Organization and discipline of such forces

Officers of the armed services, and their appointment, discharge, resignation, dismissal, rank, rights, powers, duties and liabilities

Soldiers, sailors, marines, airmen, etc., and their enlistment, conscription and discharge, pay and other rights, duties and liabilities

Aid and relief to members of armed forces and to their families, etc.

Relation of military forces to civil authorities in general

Insurance and indemnity

Veterans' benefits

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Bounties and pensions for military service, see BOUNTIES and PENSIONS

Courts-martial, see MILITARY JUSTICE

Defense contracts, see UNITED STATES, WAR AND NATIONAL EMERGENCY

Militia not called into the service of the general government, see MILITIA

Veterans' preference for public employment, see MUNICIPAL CORPORATIONS, PUBLIC EMPLOYMENT

War, employment and operation of armed services in, and their subjection to martial law, see WAR AND NATIONAL EMERGENCY

I. IN GENERAL, ¶1-54.

II. INSURANCE AND INDEMNITY, ¶55-100.

III. VETERANS' BENEFITS, ¶101-169.

(A) IN GENERAL, ¶101-129.

(B) ADMINISTRATIVE PROCEEDINGS, ¶130-149.

(C) REVIEW OF ADMINISTRATIVE PROCEEDINGS, ¶150-169.

I. IN GENERAL.

1. Power to maintain, regulate, and control.
2. Sources and authority of military law.
3. Relation of military to civil authority.
 - (1). In general.
 - (2). Posse comitatus.
4. Establishment and organization.

I. IN GENERAL.(Cont'd)

5. Persons in the armed services, and militia called into service of the United States.
 - (1). In general.
 - (2). National Guard and militia.
 - (3). Discharge, retirement, and resignation in general.
 - (4). Conscientious objection.
 - (5). Sexual orientation.
 - (6). Pay and allowances.
 - (7). Correction of records.
 - (8). Judicial intervention or review.
6. Officers.
 - 6.1. — In general.
 - 6.2. — Correction of records in general.
 - 6.3. — Evaluation and rating.
7. — Appointment and promotion.
 - (1). In general.
 - (2). Correction of records.
 - (3). Judicial intervention or review.
8. — Rank and grade.
9. — Resignation.
10. — Retirement.
11. — Discharge or dismissal.
 - (1). In general.
 - (2). Grounds in general.
 - (3). Conscientious objection.
 - (4). Sexual orientation.
 - (5). Proceedings in general.
 - (6). Correction of records.
 - (7). Judicial intervention or review.
12. — Reinstatement.
13. — Pay and allowances in general.
 - (1). In general.
 - (2). Reserve officers.
 - (3). Captured or missing officers.
- 13.1. — Basic pay and special pay.
 - (1). In general.
 - (2). Army officers in general.
 - (3). Naval and Marine Corps officers in general.
 - (4). Air Force officers in general.
 - (5). Brevet officers.
 - (6). Service academy instructors.
 - (7). Extra pay in general.
 - (8). Sea duty.
 - (9). Foreign duty.
 - (10). Incentive pay for hazardous duty.
 - (11). Aides.

34. ARMED SERVICES

I. IN GENERAL.(Cont'd)

- (12). Exercising command above grade.
- (13). Mounted pay.
- (14). Leave or waiting orders.
- (15). Dismissal or discharge, and reinstatement.
- (16). Mustering out pay.
- 13.2. — Longevity pay.
 - (1). In general.
 - (2). Service creditable in general.
 - (3). Cadets and midshipmen, service as.
 - (4). Appointment from civil life.
- 13.3. — Allowances.
 - (1). In general.
 - (2). Rental and subsistence.
 - (2.1). — In general.
 - (3). — Officers entitled in general.
 - (4). — Field duty or sea duty.
 - (5). — Dependency in general.
 - (6). — Dependency of mother of officer.
 - (7). — Assignment of quarters.
 - (8). — Adequacy of quarters.
 - (9). — Rations.
 - (10). Travel and transportation.
 - (10.1). — In general.
 - (11). — Travel orders.
 - (12). — Discharge or release from active duty.
 - (13). — Leave or waiting orders.
 - (14). — Amount and computation in general.
 - (15). — Mileage.
 - (16). — Allowance for dependents.
 - (17). Medical assistance.
 - (18). Compensation for loss of property.
- 13.4. — Forfeiture and stoppage.
- 13.5. — Retirement pay.
 - (1). In general.
 - (2). Army officers in general.
 - (3). Naval and Marine Corps officers in general.
 - (4). Air Force officers in general.
 - (5). Disability retirement.
 - (5.1). — In general.
 - (5.2). — Proceedings.

I. IN GENERAL.(Cont'd)

- (5.3). — Judicial review.
- (6). Reserve officers.
- (7). Supernumeraries.
- (8). Longevity pay.
- (9). Allowances.
- (10). Recall to active duty.
- (11). Termination and other employment.
- (12). Survivor benefits.
- 13.6. — Recovery of pay and allowances.
 - (1). In general.
 - (2). Evidence.
- 13.7. — Recovery back of payments and set-off of debts.
- 14. — Rights and privileges.
- 15. — Authority and duties.
- 16. Service academies and cadets.
- 17. Enlistment.
- 18. — In general.
- 18.5. — Reenlistment.
- 19. — Minors.
- 20. Compulsory service and drafts.
- 20.1. — Statutory provisions.
 - (5). In general.
 - (1). Power of Congress.
 - (2). Validity of statutes.
 - (3). Construction and operation.
- 20.2. — Administrative regulations.
- 20.3. — Registration.
- 20.4. — Persons liable for training and service.
 - (1). In general.
 - (2). Aliens and nonresidents.
- 20.5. — Manner of selection; quotas.
- 20.6. — Deferments and exemptions.
 - (1). In general.
 - (2). Agricultural deferments.
 - (3). Conscientious objectors.
 - (4). Governmental officers and employees.
 - (5). Marriage or dependent relative.
 - (6). Ministers and students preparing for ministry.
- 20.7. — Substitutes and purchases of release.
- 20.8. — Selective Service System and proceedings.
 - (1). In general.

34. ARMED SERVICES

I. IN GENERAL.(Cont'd)

- (2). Jurisdiction and powers of boards.
- (3). Classification.
- (4). Reopening classification and re-classification.
- (5). Evidence.
- (6). Hearing.
- (7). Appeal.
- (8). Reference.
- (9). Records and files.
- (10). Order to report and notice.
- 20.9. — Judicial review of Selective Service decisions.
 - (1). In general.
 - (2). Exhaustion of administrative remedies.
 - (3). Scope of review in general.
 - (4). Finality of boards' decisions.
 - (5). Questions of fact and findings.
- 20.10. — Induction and status of selectees.
 - (1). In general.
 - (2). Induction.
 - (3). Physicians, dentists, and allied specialists.
- 20.11. — Other matters.
- 21. Enlisted personnel.
- 21.1. — In general.
- 21.2. — Correction of records in general.
- 21.3. — Promotion, rank, and grade.
- 22. — Discharge.
 - (1). In general.
 - (2). Grounds in general.
 - (3). Conscientious objection.
 - (4). Sexual orientation.
 - (5). Proceedings in general.
 - (6). Correction of records.
 - (7). Judicial intervention or review.
- 22.5. — Retirement.
- 23. — Pay and allowances in general.
- 23.1. — Basic pay and special pay.
 - (1). In general.
 - (2). Extra pay in general.
 - (3). Extra duty, additional pay for.
 - (4). Incentive pay for hazardous duty.
 - (5). Officers' training.
 - (6). Discharge and reinstatement; mustering out pay.
- 23.2. — Longevity pay.
- 23.3. — Allowances.

I. IN GENERAL.(Cont'd)

- (1). In general.
- (2). Travel and transportation.
- (3). Rations and quarters and commutation thereof.
- (4). Compensation for loss of property.
- 23.4. — Retirement pay.
 - (1). In general.
 - (2). Grade.
 - (3). Disability retirement.
 - (4). Survivor benefits.
- 23.5. — Recovery of pay and allowances.
- 24. — Rights and privileges.
- 25. — Duties.
- 26. Paymasters, pursers, disbursing officers, and agents.
- 27. Civilian employees.
 - (1). In general.
 - (2). Promotion.
 - (3). Compensation and benefits.
 - (4). Adverse employment action in general.
 - (5). Discharge, retirement, and resignation.
 - (6). Proceedings.
 - (7). Judicial intervention or review.
- 28. Forts, posts, and bases.
 - (1). In general.
 - (2). Access.
 - (3). Closure and realignment.
- 29. Vessels and navy yards.
- 30. Medals of honor.
- 31. Civil status of persons in armed services.
- 32. Civil liabilities of persons in armed services.
 - 32.1. — In general.
- 33. — To one another.
- 34. — To civilians, in general.
 - (1). In general.
 - (2). Liabilities for military acts, in general.
 - (3). Taking or destroying property.
- 34.1. Civil relief; suspension of enforcement of liabilities.
- 34.2. — In general.
 - (1). In general.
 - (2). Statutory provisions.

34. ARMED SERVICES

I. IN GENERAL.(Cont'd)

- (3). Purpose and construction of statutes.
- (4). Discretionary or mandatory.
- (5). Prejudice and existence of good defense.
- (6). Grounds for denial of relief in general; waiver.
- (7). Procedure and relief in general.
- 34.3. — Persons protected.
 - (1). In general.
 - (2). Corporations, partnerships and third persons.
 - (3). Dependents and family.
 - (4). Insurer's rights, and effect of indemnity.
 - (5). Nature and time of service; availability notwithstanding service.
 - (6). Secondary liability; comakers, sureties and endorsers.
- 34.4. — Particular subjects of relief.
 - (1). In general.
 - (2). Assistance in meeting obligations; insurance premiums.
 - (3). Bail bonds.
 - (4). Divorce and domestic relations.
 - (5). Fines and penalties.
 - (6). Installment contracts.
 - (7). Interest rate.
 - (8). Process, witnesses and other incidental proceedings.
- 34.5. — Default of appearance, appointment of attorney and relief against judgments.
 - (1). In general.
 - (2). Affidavits.
 - (3). Attorney, appointment and compensation.
 - (4). Default.
 - (5). Procedure.
- 34.6. — Leases; eviction and distress.
- 34.7. — Mortgages.
 - (1). In general.
 - (2). Procedure.
 - (3). Relief granted; conditions.
- 34.8. — Stay or vacation of executions, attachments or garnishments.
- 34.9. — Stay of particular actions.
 - (1). In general.

I. IN GENERAL.(Cont'd)

- (2). Divorce and domestic relations cases.
- (3). Tort cases.
- (4). Procedure.
- (5). Relief granted; duration and termination of stay.
- 34.10. — Taxes and public lands.
- 34.11. — Time limitations.
 - (1). In general.
 - (2). Redemption.
- 34.12. — Effect of relief or of violation of rights.
- 35. Offenses by persons in armed services.
Courts-martial, see MILITARY JUSTICE.
- 36. — In general.
- 37. — Mutiny.
- 38. — Desertion.
- 39. — Minor violations of articles of war, or of service regulations.
- 40. Offenses by persons not in armed services in general.
 - (1). In general.
 - (2). Causing insubordination, disloyalty, mutiny, or refusal of duty.
 - (3). Obstructing recruiting or enlistment service.
 - (4). Relating to desertion.
 - (5). Relating to government property.
 - (6). Indictment and information.
 - (7). Evidence.
 - (8). Trial and sentence.
- 40.1. Compulsory service or draft evasion.
 - (1). In general.
 - (2). Counseling, aiding, or abetting evasion.
 - (3). False statements.
 - (4). Failure to report change of status or address.
 - (5). Violation of induction order.
 - (6). Evasion of civilian service required of conscientious objectors.
 - (7). Defenses.
 - (8). Indictment and information.
 - (9). Presumptions and burden of proof.
 - (10). Admissibility of evidence.
 - (11). Weight and sufficiency of evidence.

34. ARMED SERVICES

I. IN GENERAL.(Cont'd)

- (11.1). — In general.
- (12). — Violation of induction order.
- (13). — Exempt or deferred status and classification.
- (14). Trial in general; scope of inquiry.
- (15). Questions for jury.
- (16). Instructions.
- 41. Courts of inquiry.
- 50. Aid or relief to families of persons in armed services.
- 54. Battlefields and monuments.

II. INSURANCE AND INDEMNITY.

- 55. War risk and life insurance.
- 56. — In general.
- 57. — Nature and purpose.
- 58. — Statutory provisions.
 - (1). In general.
 - (2). Validity.
 - (3). Construction and operation in general.
 - (4). Amendment and repeal.
 - (5). Retroactive operation.
- 59. — Official regulations.
- 60. — Persons entitled.
- 61. — Insurable interest.
- 62. — Contract or policy.
- 63. — Construction of contract or policy.
- 64. — Conversion of term insurance into elected policies.
- 65. — Premiums.
- 66. — Cancellation, surrender, or rescission.
- 67. — Reformation of policy.
- 68. — Commencement and duration of risk.
- 69. — Forfeiture or lapse.
 - (1). In general.
 - (2). Nonpayment of premiums.
 - (3). Reinstatement or revival.
 - (4). Application of compensation, bonus, or deposit to prevent lapse or to revive insurance.
- 70. — Estoppel or waiver of right to avoid or forfeit insurance.
- 71. — Incontestability.

II. INSURANCE AND INDEMNITY.(Cont'd)

- 72. — Risks and causes of death or disability.
- 73. — Total and permanent disability.
 - (1). In general.
 - (2). Absolute incapacity.
 - (3). Inability to follow substantially gainful occupation.
 - (4). Inability to follow usual calling.
 - (5). Effect of actual employment.
- 74. — Accrual of liability.
- 75. — Presentation and proof of claim.
- 76. — Adjustment and discharge of liability.
- 77. — Right to proceeds.
 - (1). In general.
 - (2). Persons who may be beneficiaries.
 - (3). Designation of beneficiaries in general.
 - (4). Testamentary designation of beneficiaries.
 - (5). Change of beneficiaries.
 - (6). Vested interests of beneficiaries.
 - (7). Invalid or ineffective designation of beneficiaries.
 - (8). Failure to make designation of beneficiaries.
 - (9). Payments to guardians or other representatives.
 - (10). Trusts.
 - (11). Payment to and distribution of estate of insured in general.
 - (12). Persons entitled to proceeds and their respective shares.
 - (13). Time with reference to which persons entitled to proceeds are determined.
 - (14). What law governs; preemption.
 - (15). Rights of persons claiming under or through beneficiaries.
 - (16). Estoppel, waiver, or forfeiture of rights of beneficiaries.
 - (17). Rights of creditors of insured.
 - (18). Rights of creditors of beneficiaries.
 - (19). Actions and proceedings to determine rights.
- 78. — Assignments and transfers.
- 79. — Actions on policies.
 - (1). In general.

34. ARMED SERVICES

II. INSURANCE AND INDEMNITY.(Cont'd)

- (2). Nature and form.
- (3). Conditions precedent.
- (3.1). — In general.
- (4). — Disagreement.
- (5). — Filing and rejection of claim.
- (6). Defenses.
- (7). Jurisdiction and venue.
- (8). Time to sue, limitations, and laches.
- (13). Parties, process and appearance.
- (14). Pleading.
- (18). Presumptions and burden of proof.
- (18.1). — In general.
- (21). — Permanent and total disability.
- (22). Admissibility of evidence.
- (24). Weight and sufficiency of evidence.
- (24.1). — In general.
- (25). — Degree and character of proof required.
- (26). — Delay in making claim.
- (27). — Fraud.
- (28). — Disability of insured in general.
- (29). — Performance of work or preparation therefor.
- (30). — Nature of ailment in general.
- (31). — Mental or nervous disorder.
- (32). — Tuberculosis.
- (33). — Right to proceeds.
- (34). — Change of beneficiary.
- (36). Trial in general.
- (37). Scope of inquiry.
- (38). Questions for jury.
- (38.1). — In general.
- (39). — Fraud.
- (40). — Extent of disability.
- (41). — Performance of work or preparation therefor.
- (42). — Nature of ailment in general.
- (43). — Mental or nervous disorder.
- (44). — Tuberculosis.
- (45). Instructions.

II. INSURANCE AND INDEMNITY.(Cont'd)

- (48). Judgment and relief awarded.
- 80. — Costs and attorney fees.
- 81. — Offenses and penalties.
- 82. — Effect on rights of action against third person.
- 83. Servicemen's indemnity.

III. VETERANS' BENEFITS.

Excludes pensions on retirement, see ARMED SERVICES §5(6), 13.5, and 23.4, and insurance, see ARMED SERVICES §55 et seq.

(A) IN GENERAL.

- 101. In general.
- 101.1. Constitutional, statutory and regulatory provisions.
- 102. Veterans' administration, boards, and officers.
- Excludes proceedings on claims for benefits, see ARMED SERVICES §130 et seq.*
- 102.1. Eligibility for benefits.
- 103. Aid and relief for indigents.
- 104. Compensation for disability.
- 104.1. — In general.
 - (1). In general.
 - (2). Examination.
 - (3). Rating and amount.
 - (4). Service connection.
 - (5). Evidence.
- 104.2. — Physical disability.
 - (1). In general.
 - (2). Examination.
 - (3). Rating and amount.
 - (4). Service connection.
 - (5). Evidence.
- 104.3. — Mental disability.
 - (1). In general.
 - (2). Examination.
 - (3). Rating and amount.
 - (4). Service connection.
 - (5). Evidence.
- 104.5. Death benefits; dependency and indemnity compensation.
- 105. Education and training.
 - (1). In general.
 - (2). Period of eligibility.
- 106. Extension of patents.
- 107. Hospitalization and medical care.
- 108. Loans and housing.

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III. VETERANS' BENEFITS.(Cont'd)

- 108.1. — In general.
- 109. — Price limitation.
- 110. — Recovery of overcharges.
 - (1). In general.
 - (2). Actions.
- 111. — Rental housing.
- 112. — Offenses.
- 113. Employment and reemployment.
- 113.1. — In general.
- 114. — Statutory provisions.
 - (1). In general.
 - (2). Liberal construction.
- 115. — Veterans and service members entitled.
 - (1). In general.
 - (2). Governmental officers and employees.
 - (3). Employment in general.
 - (4). Temporary employment or position.
 - (5). Contract of employment.
 - (6). Independent contractors.
 - (7). Leaving position for training or service.
 - (8). Qualification for position.
- 116. — Employers obligated.
- 117. — Application for employment or reemployment.
- 118. — Position applied for, held, or restorable.
 - (1). In general.
 - (2). Particular positions.
 - (3). Compensation.
 - (4). Seniority.
 - (5). Apprenticeship, classification, and promotion.
 - (6). Vacation and sick pay.
 - (7). Collective bargaining agreements.
- 119. — Change of circumstances.
- 120. — Adverse employment actions.
 - (1). In general.
 - (2). Particular adverse actions.
 - (3). Discharge.
- 121. — Waiver.
- 122. — Actions or proceedings for enforcement.
 - (1). In general.
 - (2). Jurisdiction and venue.

III. VETERANS' BENEFITS.(Cont'd)

- (3). Parties and pleading.
- (4). Evidence in general.
- (5). Weight and sufficiency of evidence.
- (6). Judgment and relief; damages.
- 123. Readjustment assistance and allowances.
- 124. Soldiers' homes.
- 125. Burial.
- 126. Waiver or forfeiture of benefits.
- 127. Recoupment of overpayments.

(B) ADMINISTRATIVE PROCEEDINGS.

- 130. In general.
- 132. Claims procedures in general.
 - (1). In general.
 - (2). Form and requisites of claim in general.
 - (3). Well-grounded claim.
 - (4). Determination.
- 133. Agency assistance.
 - (1). In general.
 - (2). When duty arises.
 - (3). Scope of duty in general.
 - (4). Records.
 - (5). Medical examination or opinion.
- 134. Reopening claims.
 - (1). In general.
 - (2). New and material evidence in general.
 - (3). Particular cases.
- 134.5. Clear and unmistakable error.
- 135. Board of veterans appeals.
- 136. — In general.
- 137. — Proceedings for review.
- 138. — Notice of disagreement.
- 139. — Scope of review.
- 140. — Hearing.
- 141. — Findings.
- 142. — Determination.
- 143. — Rehearing.
- 144. Fees of agents and attorneys.

(C) REVIEW OF ADMINISTRATIVE PROCEEDINGS.

- 150. In general.
- 151. Jurisdiction.
- 152. Exhaustion of remedies.
- 153. Decisions reviewable.

34. ARMED SERVICES

III. VETERANS' BENEFITS.(Cont'd)

- 154. Court of Appeals for Veterans Claims (formerly Court of Veterans Appeals).
- 155. — In general.
Establishment and organization of Court of Appeals for Veterans Claims, see FEDERAL COURTS ¶2005.
- 156. — Jurisdiction.
- 157. — Exhaustion of remedies.
- 158. — Decisions reviewable.
- 159. — Presentation or reservation of grounds for review.
- 160. — Proceedings for review.
 - (1). In general.
 - (2). Notice of appeal in general.
 - (3). Time for proceedings.
- 161. — Effect of transfer or proceedings therefor.
- 162. — Record.
- 163. — Summary disposition.
- 164. — Representation by attorneys or others.
- 165. — Scope of review.
 - (1). In general.
 - (2). Trial de novo.
 - (3). Presumptions.
 - (4). Discretion.
 - (5). Questions of fact and findings.
 - (6). Harmless error.
- 166. — Determination.
- 167. — Remand.
- 168. Further review.
- 169. Extraordinary jurisdiction and relief.

35. ARREST

SUBJECTS INCLUDED

Taking and keeping persons in legal custody to answer demands in civil actions or charges of crime, or to prevent commission of crime

Nature and scope of the remedy in both civil and criminal cases in general; in what cases, and to and against whom, it is allowed

Privilege from arrest

Grounds of arrest and jurisdiction over and proceedings to obtain arrest

Investigatory stop or stop and frisk

Issuance, requisites and validity of writs, warrants, orders of arrest, etc., in civil actions, and amendment thereof

Authority to arrest, making arrests and service of writs, warrants, etc.

Quashing, vacating or setting aside process or orders for arrest, discharge from custody of poor debtors, etc., and other relief against arrest

Securities to procure arrest, liabilities thereon and enforcement thereof

Wrongfully procuring or making arrests, liabilities of persons other than officers

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Actions for violations of constitutional rights of arrestees, see also CIVIL RIGHTS

Bail, admission to, and rights and liabilities of bail, see BAIL

Commencing civil actions, arrest as a means of, see PROCESS

Contempt proceedings, arrests involving, see CONTEMPT ¶56

Debt, constitutional prohibitions of imprisonment for, see CONSTITUTIONAL LAW ¶1106

Habeas corpus, writs of, see HABEAS CORPUS

Illegal arrest, liabilities for, see FALSE IMPRISONMENT

Judgment, motions in arrest of, see CRIMINAL LAW and JUDGMENT

Ne exeat, writs of, see NE EXEAT

Offenses committed in making or resisting arrest or delivering prisoner from custody, see ASSAULT AND BATTERY, HOMICIDE, OBSTRUCTING JUSTICE, ESCAPE, RESCUE

Officers' duties and liabilities in respect of arrests, care and custody of prisoners, escapes, etc., see CLERKS OF COURTS, SHERIFFS AND CONSTABLES, PRISONS, and other specific topics

Parole violators, arrest of, see PARDON AND PAROLE ¶80

Particular classes of persons, liability of to arrest, see INFANTS and other specific topics

35. ARREST

Probation violators, arrest of, see SENTENCING AND PUNISHMENT §2012

Review of decisions in civil actions relating to arrest, see APPEAL AND ERROR

Stop or arrest for traffic violation or other vehicle code violation, see AUTOMOBILES §349; searches incident to such a stop or arrest, see AUTOMOBILES §349.5

Vessels, arrest of, see ADMIRALTY

Warrants for arrest in criminal prosecutions, see CRIMINAL LAW

I. IN CIVIL ACTIONS, §1-57.

II. ON CRIMINAL CHARGES, §57.1-73.

I. IN CIVIL ACTIONS.

1. Nature and purpose of remedy.
3. Statutory provisions.
4. Actions in which arrest is authorized.
5. Existence of, or resort to, other remedy.
6. Persons entitled.
7. Persons liable.
8. — In general.
9. — Privileges and exemptions.
10. Grounds.
- 10.1. — In general.
11. — Nonresidence.
12. — Absconding, absence, or concealment.
13. — Nature of cause of action.
14. — Acts in official or fiduciary capacity.
15. — Fraud in contracting or incurring liability.
16. — Fraudulent removal or disposition of property.
17. — Acts preventing replevin of chattel.
18. Waiver or loss of right.
19. Jurisdiction and authority to grant.
20. Proceedings to procure in general.
21. Affidavits for arrest.
22. — In general.
23. — Persons who may make.
24. — Formal requisites.
25. — Averments in general.
26. — Averments as to parties.
27. — Knowledge or information.
28. — Averments as to cause of action and indebtedness.
29. — Averments as to grounds for arrest.

I. IN CIVIL ACTIONS.(Cont'd)

30. — Filing and service.
31. — Amendment and supplemental affidavits.
32. — Defects, objections, and waiver.
33. Writ, warrant, or order.
34. Bond, undertaking, or other security to procure arrest.
35. Complaint or other pleading.
36. Service of process or order.
37. Making arrest.
38. Return of process or order.
39. Custody and disposition of prisoner.
40. Proceedings to support or enforce arrest.
41. Quashing or vacating.
42. — In general.
43. — Grounds.
44. — Motions and proceedings thereon.
45. — Operation and effect.
46. Discharge on motion.
47. — In general.
48. — Grounds.
49. — Motions and proceedings thereon.
50. — Operation and effect.
51. Discharge on prison limits bond.
52. Discharge on surrender of or disclosure as to property.
53. Discharge of poor debtors.
54. Rearrest.
55. Second arrest.
56. Liabilities on bonds or undertakings.

II. ON CRIMINAL CHARGES.

- 57.1. In general.
- 57.2. What is an arrest.
- 57.3. — In general.
- 57.4. — Particular cases.
- 57.5. Time when an arrest occurs, in general.
- 57.6. — In general.
- 57.7. — Particular cases.
- 57.8. What law governs.
58. Grounds and purpose in general.
- 58.1. Right to be arrested in general.
59. Persons liable.
- 59.1. — In general.
60. — Privileges and exemptions.
- 60.1. Pre-arrest issues; police-citizen encounters.
- (1). In general.

35. ARREST

II. ON CRIMINAL CHARGES.(Cont'd)

- (2). Casual, routine, or random encounters.
- (3). Tests for determining propriety.
- (4). Particular cases.
- 60.2. Investigatory stop or stop and frisk.
 - (1). In general.
 - (2). What is a stop or investigatory stop.
 - (3). — In general.
 - (4). — Particular cases.
 - (5). Necessity for cause for arrest.
 - (6). Grounds for stop or investigation.
 - (7). — In general.
 - (8). — Profiling.
 - (9). — Collective knowledge.
 - (10). — Reasonableness; reason or founded suspicion, etc.
 - (11). — After-acquired information.
 - (12). — Pursuit.
 - (13). — Particular cases.
 - (14). Mode of stop.
 - (15). Warnings.
 - (16). Arrest distinguished.
 - (17). — In general.
 - (18). — Particular cases.
 - (19). Justification for pat-down search.
 - (20). Duration of detention and extent or conduct of investigation or frisk.
- 60.3. Motor vehicle stops.
 - (1). In general.
 - (2). Particular cases.
 - (3). Duration of detention and extent or conduct of investigation.
- 60.4. What constitutes a seizure or detention.
 - (1). In general.
 - (2). Particular cases.
- 62. Authority to arrest without warrant in general.
- 63. Officers and assistants, arrest without warrant.
 - 63.1. — In general.
 - 63.2. — Who may arrest.
 - 63.3. — Presence of, or fresh pursuit by, officer.
 - 63.4. — Probable or reasonable cause.
 - (5). In general.

II. ON CRIMINAL CHARGES.(Cont'd)

- (1). Grounds for warrantless arrest in general.
- (2). What constitutes such cause in general.
- (3). Suspicion or rumor.
- (4). Time of existence; after-acquired information.
- (5). Nature of offense; felony or misdemeanor.
- (6). Nature and source of information in general.
- (7). Information from others.
 - (7.1). — In general.
- (8). — Reliability of informer.
- (9). — Corroboration.
- (10). — Anonymous or unidentified informers.
- (11). — Other officers or official information.
- (12). — Identification or description of offender or vehicle.
- (13). Personal knowledge or observation in general.
- (14). Legality of officers' presence, search, or other conduct.
- (15). Appearance, acts, and statements of persons arrested.
- (16). Possession, disposal, or concealment of article; flight or hiding.
- (17). Arrested person's presence or association.
- (18). Evidence.
- 64. Private persons, arrest without warrant.
- 65. Authority under warrant.
- 66. Place of arrest or stop.
 - (1). In general.
 - (2). Officer's authority outside jurisdiction.
 - (3). Pursuit.
- 67. Time for arrest.
- 68.1. Mode of making arrest.
 - (1). In general.
 - (2). Language use.
 - (3). Time or duration of arrest.
 - (4). Use of force.
 - (5). Restraints.
- 68.2. Intrusion or entry to arrest.
 - (1). In general.

36. ARSON

II. ON CRIMINAL CHARGES.(Cont'd)

- (2). What is an "entry".
 - (3). Arrest without arrest warrant.
 - (4). — In general.
 - (5). — Exigent circumstances.
 - (6). — Probable cause.
 - (7). — Pursuit.
 - (8). — Controlled substances.
 - (9). — Nature of offense.
 - (10). Entry with warrant.
 - (11). Announcement of purpose.
 - (12). Consent.
69. Summoning bystanders.
70. Custody and disposition of prisoner.
- (1). In general.
 - (2). Presentation to magistrate, etc.; arraignment.
71. Property in possession of prisoner in general.
- 71.1. Search.
- (1). In general.
 - (2). Probable cause; offense in officer's presence.
 - (2.1). — In general.
 - (3). — Narcotics cases.
 - (4). Scope of search.
 - (4.1). — In general.
 - (5). — Particular places or objects.
 - (6). — Persons and personal effects; person detained for investigation.
 - (7). Bona fides and validity of arrest; practicability of procuring warrant.
 - (8). Search not incident to arrest; time and distance factors.
 - (9). Mode of search or of observing grounds for arrest; force, trespass or consent.
 - (10). Curing defects in arrest or search; disclosure of different offense or offender.
 - (12). Powers of citizens or particular officers.
72. Rearrest.
73. Second arrest.

36. ARSON

SUBJECTS INCLUDED

Malicious burning of, or setting fire to or attempting to burn, buildings or other structures and property therein

Nature and elements of the crimes of arson, house-burning, etc., and of degrees thereof, and grounds of defense

Prosecution and punishment of such acts as public offenses

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Civil liability for—

Injuries from fire caused by negligence, see NEGLIGENCE, ELECTRICITY, EXPLOSIVES, RAILROADS

Willful or criminal burning or setting fires, see FIRES

Woods, prairies, fields, crops, etc., offenses of burning or setting fire to and of refusing to aid in or obstructing extinguishment, see FIRES

1. Nature and elements of offenses.
2. — In general.
3. — Intent.
4. — Malice.
5. — Character of property.
6. — Value of property.
7. — Situation of property.
8. — Occupancy of building.
9. — Ownership or possession of property.
10. — Time.
11. — Burning or setting fire.
12. Degrees.
13. Attempts.
14. Defenses.
15. Persons liable.
17. Indictment or information.
- 17.1. — In general.
18. — Requisites and sufficiency in general.
19. — Intent and malice.
20. — Description of property.
21. — Occupancy of building.
22. — Ownership or possession of property.
23. — Burning or setting fire.
24. — Attempt.

36. ARSON

- 25. — Issues, proof, and variance.
- 26. Evidence.
- 26.1. — In general.
- 27. — Presumptions and burden of proof.
- 28. — Admissibility in general.
- 29. — Intent and malice.
- 30. — Description and ownership or possession of property.
- 31. — Motive.
- 32. — Threats, preparations, and previous attempts.
- 33. — Identity, presence, and acts of accused.
- 34. — Incriminating circumstances.
- 35. — Matters of defense.
- 36. — Rebuttal.
- 37. — Weight and sufficiency.
 - (1). In general.
 - (2). Intent.
 - (3). Ownership and insurance.
- 38. Trial.
- 39. — In general.
- 40. — Questions for jury.
- 41. — Instructions.
- 42. — Verdict.
- 45. Sentence and punishment.

37. ASSAULT AND BATTERY

SUBJECTS INCLUDED

Acts of violence towards the person of another, with or without actual touching or striking, not constituting an element in, or attempt to commit, any other specific injury or offense

Justification or excuse for such acts, and circumstances of aggravation

Liabilities and remedies therefor, civil or criminal

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Death, assault resulting in civil liability, see DEATH

Motor vehicles, assaults by operation of, see AUTOMOBILES

Obstructing process or resisting officer, assaults committed in, see OBSTRUCTING JUSTICE

Other offenses—

Commission of assault with intent to, or in attempt to, perpetrate, see HOMICIDE, ROBBERY, SEX OFFENSES

Convictions of assault in prosecutions for, see INDICTMENT AND INFORMATION

Unlawful arrest, assaults in connection with, see FALSE IMPRISONMENT

I. CIVIL LIABILITY, ¶1-46.

(A) ACTS CONSTITUTING ASSAULT OR BATTERY AND LIABILITY THEREFOR, ¶1-18.

(B) ACTIONS, ¶19-46.

II. CRIMINAL RESPONSIBILITY, ¶47-100.

(A) OFFENSES, ¶47-72.

(B) PROSECUTION, ¶73-99.

(C) SENTENCE AND PUNISHMENT, ¶100.

I. CIVIL LIABILITY.

(A) ACTS CONSTITUTING ASSAULT OR BATTERY AND LIABILITY THEREFOR.

- 1. Nature and elements of assault and battery.
- 2. — In general.
- 3. — Intent and malice.
- 4. — Ability to execute intent.
- 5. — Overt act in general.
- 6. — Unlawful act.
- 7. — Excessive force in doing lawful act.
- 7.5. — Sexual assault.
- 8. Defenses.
- 9. — In general.
- 10. — Exercise of authority or duty.
- 11. — Consent.
- 12. — Provocation.
- 13. — Self-defense.
- 14. — Defense of another.
- 15. — Defense of property.
- 16. — Accident.
- 17. Persons entitled to sue.
- 18. Persons liable.

37. ASSAULT AND BATTERY

(B) ACTIONS.

19. Grounds and conditions precedent.
20. Jurisdiction and venue.
21. Time to sue and limitations.
See also LIMITATION OF ACTIONS.
22. Parties.
23. Process.
24. Pleading.
 - (.5). In general.
 - (1). Declaration, petition, or complaint.
 - (2). Plea or answer and replication.
 - (3). Issues, proof, and variance.
25. Evidence.
 - 25.1. — In general.
26. — Presumptions and burden of proof.
27. — Admissibility in general.
28. — Intent and malice.
29. — Character and physical condition of parties.
30. — Provocation or justification.
31. — Nature and circumstances of act.
32. — Extent of injury.
33. — Aggravation of damages.
34. — Mitigation of damages.
35. — Weight and sufficiency.
 - (1). In general.
 - (2). Sexual assault.
36. Damages.
 37. — In general.
38. — Elements of compensation.
39. — Exemplary.
40. — Amount awarded.
41. Trial.
 - 41.1. — In general.
42. — Questions for jury.
43. — Instructions.
 - (1). In general.
 - (2). Defenses.
 - (3). Persons liable.
 - (4). Presumptions and burden of proof.
 - (5). Damages.
 - (6). Applicability to pleadings and issues.
44. — Verdict.
45. Judgment and review.
46. Costs.

II. CRIMINAL RESPONSIBILITY.

(A) OFFENSES.

47. Nature and elements of criminal assault.
48. — In general.
49. — Intent and malice.
50. — Ability to execute intent.
51. — Overt act in general.
52. — Unlawful act.
53. — Use of weapons.
54. Aggravated assault.
55. Assault with intent to do great bodily harm.
56. Assault with dangerous or deadly weapon.
57. Shooting.
58. Stabbing or other wounding.
60. Degrees.
61. Attempts.
62. Defenses.
 63. — In general.
 64. — Exercise of authority or duty.
 65. — Consent.
 66. — Provocation.
 67. — Self-defense.
 68. — Defense of another.
 69. — Defense of property.
 70. — Accident.
71. Persons liable.

(B) PROSECUTION.

73. Indictment or information.
 - 73.1. — In general.
74. — Requisites and sufficiency in general.
75. — Intent and malice.
76. — Description of person assaulted.
77. — Acts constituting assault.
78. — Matter constituting aggravation or special form of assault.
79. — Attempt.
80. — Issues, proof, and variance.
81. Evidence in general.
 - 81.1. — In general.
82. — Presumptions and burden of proof.
83. — Admissibility.
 - (1). In general.
 - (2). Intent and malice.
 - (3). Character and physical condition of persons involved.

37. ASSAULT AND BATTERY

II. CRIMINAL RESPONSIBILITY.(Cont'd)

- (4). Provocation, justification, or self-defense.
- (5). Motive.
- (6). Threats, preparations, and previous attempts.
- (7). Nature and circumstances of act.
- (8). Extent of injury.
- 91.1. Weight and sufficiency of evidence.
- 91.2. — In general.
- 91.3. — Simple assault or battery.
- 91.4. — Aggravated or felony assault.
- 91.5. — Degrees of assault.
 - (1). In general.
 - (2). First degree assault.
 - (3). Second or lesser degree.
- 91.6. — Assault with a weapon or while armed.
 - (1). In general.
 - (2). Dangerous or deadly weapons in general.
 - (3). Firearms.
- 91.7. — Assault causing, or intended to cause, great bodily harm.
- 91.8. — Domestic assault.
- 91.10. — Assault of an officer or public official.
 - (1). In general.
 - (2). Status of victim.
- 91.11. — Attempt.
- 91.12. — Parties to offense.
- 91.13. — Defenses.
 - (1). In general.
 - (2). Exercise of authority or duty.
 - (3). Consent.
 - (4). Provocation.
 - (5). Self-defense.
 - (6). Defense of another.
 - (7). Defense of property.
- 93. Trial.
- 94. — In general.
- 95. — Questions for jury.
- 96. — Instructions.
 - (1). In general.
 - (2). Provocation or justification.
 - (3). Self-defense.
 - (4). Defense of property.
 - (6). Shooting, stabbing, or wounding.
 - (7). Aggravated assault.

II. CRIMINAL RESPONSIBILITY.(Cont'd)

- (8). Assault with dangerous or deadly weapon.
- (9). Assault with intent to do great bodily harm.
- 97. — Verdict.

(C) SENTENCE AND PUNISHMENT.

- 100. In general.

38. ASSIGNMENTS

SUBJECTS INCLUDED

Transfers of title to property or estates or interests therein or of other valuable rights in general

More particularly, transfers of debts or other rights in action

Nature, requisites, validity, incidents, operation and effect of such transfers

Evidence relating thereto

Instruments in writing by which such transfers are made, and delivery, acceptance, recording or registration and construction thereof

Rights, duties, and liabilities of parties thereto between themselves and as to others

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Bankrupt or insolvent laws, assignments in violation of or pursuant to, see BANKRUPTCY, CREDITORS' REMEDIES ¶1183

Creditors, general assignment for benefit of, see CREDITORS' REMEDIES ¶1172

Fraudulent transfers affecting creditors or subsequent purchasers, see FRAUDULENT CONVEYANCES

Imprisoned debtors, assignments to obtain discharge, see ARREST, CREDITORS' REMEDIES

Intervention or substitution of assignees in pending actions, see PARTIES, FEDERAL CIVIL PROCEDURE

38. ASSIGNMENTS

Particular classes of persons, transfers by or to, see INFANTS, MENTAL HEALTH and other specific topics

Particular kinds of property, interests, rights, contracts, written instruments, etc., transfers of, see COPYRIGHTS AND INTELLECTUAL PROPERTY, PATENTS, TRADEMARKS, FRANCHISES, CORPORATIONS AND BUSINESS ORGANIZATIONS, BILLS AND NOTES, INSURANCE and other specific topics

Secured transactions governed by the Uniform Commercial Code, see SECURED TRANSACTIONS

I. PROPERTY, ESTATES, AND RIGHTS ASSIGNABLE, ¶1-30.

II. MODE AND SUFFICIENCY OF ASSIGNMENT, ¶31-61.

III. VALIDITY, ¶62-70.

IV. OPERATION AND EFFECT, ¶71-89.

V. RIGHTS AND LIABILITIES, ¶90-115.

VI. ACTIONS, ¶116-139.

I. PROPERTY, ESTATES, AND RIGHTS ASSIGNABLE.

1. Nature of right to assign.
2. What law governs.
3. Statutory provisions.
4. Existence and possession of subject-matter.
5. Estates or interests in property in general.
6. Future and contingent estates or interests.
7. — In general.
8. — Expectancies.
9. — Possibilities and contingencies.
10. Money due or to become due.
11. Future profits or earnings.
- 11.1. — In general.
12. — Under existing contract.
13. — Not founded on existing contract.
14. — Fees or commissions of executor, administrator, guardian, receiver or trustee.
15. — Salary or fees of public officer.
16. Executed contracts.
17. Executory contracts.
18. — In general.
19. — Personal nature.
20. Written instruments.
21. Rights of action.
22. — In general.

I. PROPERTY, ESTATES, AND RIGHTS ASSIGNABLE.(Cont'd)

23. — On contract.
24. — For tort.
 - (1). In general.
 - (2). Injuries to person.
 - (3). Fraud.
25. — On equitable grounds.
26. — Founded on statute.
27. — Incident to transfer of right of property.
28. Verdict or other recovery.
29. Transfer of liability.
30. Partial assignments.

II. MODE AND SUFFICIENCY OF ASSIGNMENT.

31. Nature and essentials in general.
32. Parties.
33. Agreements to assign.
34. Oral assignments.
35. Assignments by delivery.
36. — In general.
37. — Written evidence of title or right.
38. — Written evidence or statement of debt or claim.
39. — Necessity and sufficiency of delivery.
40. Assignments in writing.
- 40.1. — In general.
41. — Form and contents.
42. — Indorsement of written instrument.
43. — Execution.
44. — Acknowledgment.
45. — Delivery.
46. — Filing, recording, and registration.
47. Equitable assignments.
48. — In general.
49. — Bill of exchange, check or order.
50. — Order or draft on particular fund.
 - (1). In general.
 - (2). Orders or drafts appropriating entire fund.
51. — Power of attorney.
52. — Agreement to appropriate or pay.
53. Consideration.
- 53.1. — In general.
54. — Necessity.
55. — Sufficiency.

38. ASSIGNMENTS

II. MODE AND SUFFICIENCY OF ASSIGNMENT.(Cont'd)

- 56. Acceptance by assignee.
- 57. Notice to debtor.
- 58. Consent of debtor.
- 59. Revocation.
- 60. Reassignment.

III. VALIDITY.

- 62. Capacity and assent of parties in general.
- 63. Mistake.
- 64. Fraud, duress, or undue influence.
- 65. Legality of object.
- 66. Legality of consideration.
- 67. Partial invalidity.
- 68. Estoppel or waiver as to defects or objections.
- 69. Ratification.
- 70. Right to contest validity.

IV. OPERATION AND EFFECT.

- 71. Effect of transfer in general.
- 72. General rules of construction.
- 73. Property or interest transferred.
- 74. Title conveyed.
- 75. Rights passing as incidents.
- 76. — In general.
- 77. — Collateral agreements.
- 78. — Collateral securities, liens, and preferences.
- 79. — Transfer of debt on assignment of security.
- 80. — Ancillary rights of action.
- 81. Exceptions and reservations.
- 82. Conditions and restrictions.
- 83. Priorities.
- 84. — In general.
- 85. — As between assignees.
- 86. — As between assignees and creditors.
- 87. — Bona fide assignees.
- 88. Assignments as security.
- 89. Assignments for collection.

V. RIGHTS AND LIABILITIES.

- 90. Nature and extent of rights of assignee in general.
- 91. Control over property or right assigned.
- 92. Compromise or release of claim assigned.
- 93. Payment of debt assigned.
- 94. Rights of assignee as against debtor.

V. RIGHTS AND LIABILITIES.(Cont'd)

- 95. Rights of assignee as against assignor.
- 95.1. — In general.
- 96. — Right of recourse.
- 97. — Express or implied warranty by assignor.
- 98. Rights of assignee as against third persons.
- 99. Equities and defenses between original parties.
- 100. — In general.
- 101. — As affected by notice of assignment.
- 102. — Bona fide assignees.
- 103. — Estoppel or waiver.
- 104. Equities in favor of third persons.
- 105. Liabilities of assignee.
- 105.1. — In general.
- 106. — To assignor.
- 107. — To debtor.
- 108. — For incumbrances and charges.
- 109. — On contract assigned.
- 110. Rights of assignor as against debtor.
- 111. Rights of assignor as against third persons.
- 112. Liabilities of assignor to third persons.
- 113. — In general.
- 114. — On contract assigned.
- 115. Rights and liabilities of subsequent or remote assignees.

VI. ACTIONS.

- 116. Between assignor and assignee.
- 117. By assignor.
- 118. By assignee.
- 119. — In general.
- 120. — In name of assignor.
- 121. — In name of assignee.
- 122. — Conditions precedent.
- 123. — Control of proceedings.
- 124. Against assignor.
- 125. Against assignee.
- 126. Defenses.
- 127. Jurisdiction and venue.
- 128. Time to sue, and limitations.
See also LIMITATION OF ACTIONS.
- 129. Parties.
- 130. Pleading.
- 131. — In general.
- 132. — Issues, proof, and variance.

41. ASSOCIATIONS

VI. ACTIONS. (Cont'd)

- 133. Evidence.
- 133.1. — In general.
- 134. — Presumptions and burden of proof.
- 135. — Admissibility in general.
- 136. — Assignment.
- 137. — Weight and sufficiency.
- 138. Trial, judgment, and review.
- 139. Costs.

40. ASSISTANCE, WRIT OF

SUBJECTS INCLUDED

Putting in possession of real or personal property persons adjudged to be entitled thereto or purchasers thereof under orders or decrees in equitable actions

Nature and scope of the remedy in general; in what cases, and to and against whom, and as to what property, it is allowed

Issuance, requisites and validity of writs of assistance, and execution and effect thereof

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Officers' duties and liabilities in respect of issuance and execution of writs of assistance, see SHERIFFS AND CONSTABLES and other specific topics

Writs of assistance incident to particular classes of proceedings, or to other remedies, see MORTGAGES AND DEEDS OF TRUST, RECEIVERS, and other specific topics

Writs of possession, dispossessory warrant and other remedies for enforcing judgments in actions to recover possession of specific real property, see EJECTMENT, LANDLORD AND TENANT and other specific topics

- 1. Nature and scope of remedy.
- 2. Grounds for application.
- 3. Defenses or grounds for opposition.
- 4. Persons entitled to writ.
- 5. Persons against whom writ may issue.
- 6. Property subject to writ.
- 7. Jurisdiction to issue.

- 8. Proceedings to procure.
- 9. Issuance, form, and requisites.
- 10. Vacating.

41. ASSOCIATIONS

SUBJECTS INCLUDED

Unincorporated associations in general; their nature, formation and dissolution

Rights, powers, duties and liabilities of such bodies, their members and officers, as among themselves and as to others, incident to existence of the association, and legal proceedings for enforcement thereof

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Freedom of association, see CONSTITUTIONAL LAW XVI

Joint ventures, see JOINT VENTURES

Particular businesses or purposes—

Animal welfare societies, see ANIMALS ¶3.5(11)

Banking associations, see FINANCE, BANKING, AND CREDIT IV

Bar associations, see ATTORNEY AND CLIENT ¶31

Beneficial associations, see BENEFICIAL ASSOCIATIONS

Building and loan associations, see FINANCE, BANKING, AND CREDIT IV

Business associations, see CORPORATIONS AND BUSINESS ORGANIZATIONS XV(B) and other specific topics

Cemetery associations, see CEMETERIES ¶5

Charitable societies, see CHARITIES

Churches and other bodies formed for religious purposes, see RELIGIOUS SOCIETIES

Clubs, see CLUBS

College fraternities and sororities, see EDUCATION ¶1197

Credit unions and cooperative banks, see FINANCE, BANKING, AND CREDIT IV

Employer organizations, see LABOR AND EMPLOYMENT ¶107

41. ASSOCIATIONS

Exchanges, see EXCHANGES

Farm loan associations, see FINANCE, BANKING, AND CREDIT ¶1136

Farming and agricultural societies, exhibitions, fairs, and cooperative associations, see AGRICULTURE ¶4-6

Homeowners' associations, condominium associations, cooperative associations, and similar bodies formed in connection with common interest communities, see COMMON INTEREST COMMUNITIES

Intercollegiate associations, see EDUCATION VI(L)

Interscholastic associations, see EDUCATION IV

Irrigation and ditch associations, see WATER LAW XIII(C)3

Labor unions, see LABOR AND EMPLOYMENT XII(B)

Law firms, see ATTORNEY AND CLIENT ¶30

Legal aid organizations, see ATTORNEY AND CLIENT ¶30.5

Lodges and fraternal organizations, see BENEFICIAL ASSOCIATIONS

News associations, see NEWSPAPERS ¶7

Political party organizations, see ELECTION LAW ¶160

Prisoner organizations, see PRISONS ¶128

Professional associations, see CORPORATIONS AND BUSINESS ORGANIZATIONS XV(B) and other specific topics

Savings and loan associations, see FINANCE, BANKING, AND CREDIT IV

Schools, see EDUCATION

Trade associations, see CORPORATIONS AND BUSINESS ORGANIZATIONS XV(B) and other specific topics

Unauthorized military organizations, see MILITIA ¶22

Partnerships, see PARTNERSHIP

Unincorporated companies having a capital stock divided into transferable shares, see CORPORATIONS AND BUSINESS ORGANIZATIONS XV

1. Nature and status in general.
2. Statutory provisions.
3. Proceedings for organization.
4. Name and seal.

5. Constitution and by-laws.

6. Membership.

7. — In general.

8. — Admission of members.

9. — Withdrawal of members.

10. — Expulsion, suspension, or exclusion of members.

11. — Reinstatement of members.

12. Dues, fines, and assessments.

13. Dealings between members and association.

14. Mutual dealings and liabilities of members.

15. Property and funds of association.

(5). In general.

(1). Rights of members.

(2). Rights of ex-members.

(3). Rights of association.

16. Liabilities of members for acts and debts of association.

17. Meetings and elections.

18. Officers, committees, and agents.

19. Rights and liabilities of association as to persons not members.

20. Actions by or against associations.

(1). In general.

Excludes standing to sue under environmental laws, see ENVIRONMENTAL LAW ¶652.

(2). Who should be made parties.

(3). Joinder and substitution of parties.

(4). Service of process.

(5). Pleading and proof.

21. Insolvency and receivers.

22. Reorganization.

23. Consolidation.

24. Incorporation.

25. Dissolution.

26. Foreign associations.

27. Criminal responsibility.

42. ASSUMPSIT, ACTION OF

SUBJECTS INCLUDED

Actions of assumpsit, as distinguished from other forms of action

43. ASYLUMS AND ASSISTED LIVING FACILITIES

Nature and scope of the remedy in general, grounds of such action and defenses thereto, and by and against whom they may be maintained

Proceedings therein, review of proceedings, and costs in such actions

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Election between remedies, see ELECTION OF REMEDIES

Forms of action, distinctions between, see ACTION

Implied and constructive contracts or quasi-contracts on which the action may be maintained, see CONTRACTS, IMPLIED AND CONSTRUCTIVE CONTRACTS, ACCOUNT STATED, CONTRIBUTION, SALES

1. Nature and scope of remedy.
2. Statutory provisions.
3. Grounds.
4. — In general.
5. — Common counts.
6. — Express contract.
 - (1). In general.
 - (2). Sealed instruments.
7. — Implied promise.
8. — Tort.
9. — Demand.
10. Defenses.
11. Persons entitled to sue.
12. Persons liable.
13. Jurisdiction and venue.
14. Time to sue and limitations.

See also LIMITATION OF ACTIONS.
15. Parties.
16. Process and appearance.
17. Pleading.
18. — In general.
19. — Declaration.
20. — Plea or affidavit of defense.
21. — Replication and subsequent pleadings.
22. — Amendment.
23. — Issues, proof and variance.
24. — Defects, objections, and aiders by verdict or judgment.
25. Evidence.
26. Damages.

27. Trial.
28. — In general.
29. — Questions for jury.
30. — Instructions.
31. — Verdict.
32. Judgment.
33. Review.
34. Costs.

43. ASYLUMS AND ASSISTED LIVING FACILITIES

SUBJECTS INCLUDED

Asylums, "assisted living" and other public and private residential facilities designed to accommodate and protect persons with physical or mental limitations

Orphanages, homeless shelters, half-way houses and other residential facilities for persons whose age, indigency or other special circumstances make living on their own inappropriate

The establishment, location, licensing and regulation of covered facilities

Officers and employees of covered facilities, including their appointment or hiring, compensation, duties and liabilities, and discharge

Contracts and other agreements between residents and covered facilities

Rates and charges imposed by covered facilities for the care of residents, and the obligation of residents, their relatives or the government to contribute to their support

The rights and obligations of covered facilities as to residents, including living conditions, the type of assistance provided, and the ability of facilities to control the conduct of residents

The liability of owners and operators of covered facilities for tortious injuries, including injuries to residents, injuries sustained by non-residents from the actions of residents, and the loss of residents' personal property

Criminal offenses and prosecutions peculiar to covered facilities and their residents

43. ASYLUMS AND ASSISTED LIVING FACILITIES

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

The residential treatment of alcoholics and drug addicts, see **CHEMICAL DEPENDENTS**

Discrimination as to admission or accommodation by reason of race, color, etc., see **CIVIL RIGHTS**

Liability of a facility owner or operator for emotional distress or mental anguish, see **DAMAGES** or **DEATH**

Damages and other procedural aspects of a wrongful death action against the owner or operator of a covered facility, see **DEATH**

Hospitals and other facilities, the primary purpose of which is to provide treatment of physical and mental illness, see the topics **HEALTH** and **MENTAL HEALTH**

Medicaid, Medicare and other government-provided medical assistance, see **HEALTH**

Liability of health care providers for medical malpractice, negligence or breach of statutory duty, see **HEALTH**

Nursing homes and home health care, see **HEALTH**

Building and fire codes, as applied to covered facilities, see **HEALTH**

Child day care and foster care, see **INFANTS**

Facilities for the rehabilitation of juvenile delinquents, see **INFANTS**

Accrual, computation and tolling of statutes of limitations on actions involving covered persons or facilities, see **LIMITATION OF ACTIONS**

Involuntary commitment to a hospital or other facility on account of mental illness or developmental disability, see **MENTAL HEALTH**

Administrative searches of licensed and regulated facilities, see **SEARCHES AND SEIZURES**

The siting or location of a covered facility pursuant to zoning and planning statutes or regulations, see **ZONING AND PLANNING**

10. In general.

11. Constitutional and statutory provisions.

12. Preemption.

13. Establishment, licensing and location.

Restrictions on the location of facilities pursuant to zoning and planning statutes and regulations, see ZONING AND PLANNING.

14. — In general.

15. — Administrative agencies and proceedings.

16. — Judicial review.

17. Officers and employees.

18. Regulation of operation in general.

19. Residency contracts and agreements in general.

20. Living conditions and assistance provided; control of residents.

Financial assistance, see ¶23. Discharge of resident for bad behavior, see ¶21.

21. Admittance, discharge and transfer.

Involuntary commitment based upon mental illness or developmental disabilities, see the topic MENTAL HEALTH.

22. Residents' personal property in general.

Use of resident's property for the cost of room, board and care, see ¶23.

23. Rates, charges, support and compensation.

24. — In general.

25. — Relatives, liability for support.

26. Records and duty to report; confidentiality in general.

27. Discipline and revocation of license, permit or certificate; closure.

Criminal offenses and prosecutions, see ¶49 and ¶50.

28. — In general.

29. — Grounds, punishment and civil penalties.

30. — Administrative agencies and proceedings.

31. — Judicial review.

32. Renewal or reinstatement of license, permit or certificate.

33. Tort liability of owners or operators.

See also FALSE IMPRISONMENT, FRAUD, LIBEL AND SLANDER, MALICIOUS PROSECUTION, NUISANCE, TORTS, TRESPASS, and CONVERSION AND CIVIL THEFT.

34. — In general.

35. — Abuse of, or physical injury to, residents.

Emotional harm or distress, see DAMAGES or DEATH.

(1). In general.

(2). Particular cases.

(3). Suicide.

See DEATH for damages, standing and right to sue, limitations and other concepts peculiar to that topic.

36. — Acts of residents injuring non-residents.

37. — Defenses.

45. ATTORNEY AND CLIENT

- 38. — Persons liable.
- 39. Actions.
- 40. — In general.
- 41. — Pleading.
- 42. — Right of action; standing.
- 43. — Time to sue and limitations.
Computation and accrual, see LIMITATION OF ACTIONS.
- 44. — Evidence.
- 45. — Questions of fact.
- 46. — Instructions.
- 47. — Damages.
See DEATH for damages due to a fatality. See DAMAGES or DEATH for emotional distress damages.
- 48. — Verdict and findings.
- 49. Offenses.
- 50. Prosecution and punishment.

45. ATTORNEY AND CLIENT

SUBJECTS INCLUDED

- Practice of law in any rank or branch of the profession
- Admission to practice, and privileges, disabilities and liabilities incident to the office conferred
- Licenses and license fees and privilege and occupation taxes
- Regulation of professional conduct
- The relation between attorney and client, and their mutual rights, duties and liabilities

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

- Admissions and declarations by attorneys, see EVIDENCE
- Champerous contracts and transactions with attorneys, see CHAMPERTY AND MAINTENANCE
- Particular classes of persons, representation of, see INFANTS, MENTAL HEALTH, CORPORATIONS AND BUSINESS ORGANIZATIONS, and other specific topics
- Particular proceedings, conduct of, see specific topics

Privileged attorney-client communications, see PRIVILEGED COMMUNICATIONS AND CONFIDENTIALITY

Public officers, attorneys as, see ATTORNEY GENERAL, CLERKS OF COURTS, DISTRICT AND PROSECUTING ATTORNEYS, JUDGES, PUBLIC EMPLOYMENT

- I. THE OFFICE OF ATTORNEY, ¶1-61.
 - (A) ADMISSION TO PRACTICE, ¶1-13.
 - (B) PRIVILEGES, DISABILITIES, AND LIABILITIES, ¶14-33.
 - (C) DISCIPLINE, ¶34-61.
- II. RETAINER AND AUTHORITY, ¶62-104.
- III. DUTIES AND LIABILITIES OF ATTORNEY TO CLIENT, ¶105-129.5.
- IV. COMPENSATION, ¶130-170.
- V. LIEN, ¶171-192.

I. THE OFFICE OF ATTORNEY.

(A) ADMISSION TO PRACTICE.

- 1. Constitutional and statutory provisions.
- 2. Rules of court.
- 3. Jurisdiction to admit.
- 4. Capacity and qualifications.
- 5. Application.
- 6. Examination.
- 7. Determination of right to admission.
- 8. Oath.
- 9. Certificate or license.
- 10. Admission of practitioners in different jurisdiction.
- 12. Practitioners not admitted or not licensed; unauthorized practice of law.
Enjoining unauthorized practice of law, see INJUNCTION.
 - (1). In general.
 - (2). Organizations and corporations, practice by in general.
Law firms, see ¶30. Legal aid organizations, see ¶30.5.
 - (3). What constitutes practice of law; prohibited and permitted acts.
 - (4). — In general.
 - (5). — Representation of others in general.
 - (6). — Representation of organizations and corporations in general.

45. ATTORNEY AND CLIENT

I. THE OFFICE OF ATTORNEY.(Cont'd)

- (7). — Drafting or preparation of documents in general.
- (8). — Administrative practice in general.
- (9). — Financial services; banks and banking.
- (10). — Insurance.
- (11). — Real estate; mortgages and liens; title insurance.
- (12). — Wills, trusts, and estates; trust companies.
- (13). — Heir hunting.
- (14). — Labor and employment.
- (15). — Workers' compensation.
- (16). — Unemployment compensation.
- (17). — Intellectual property; patents, copyrights, and trademarks.
- (18). — Tax matters.
- (19). — Bankruptcy and debt collection.
- (20). — Immigration.
- (21). — Family law and domestic relations.
- (22). Lawyers not admitted, licensed, or authorized in jurisdiction.
- (23). Students, graduates, and interns.
- (24). Paralegals and clerks.
- (25). Effect of unauthorized practice in general.
- (26). Investigations, contempts, and prosecutions.
- (27). Private actions for unauthorized practice.

(B) PRIVILEGES, DISABILITIES, AND LIABILITIES.

14. Nature and term of office.
15. Privilege as party to suit.
16. Privilege from arrest or service of process.
17. Becoming bail or surety.
18. Purchasing demands for suit.
19. Disqualification in general.
20. Representing adverse interests.
Excludes criminal cases, see CRIMINAL LAW ¶639, 641.5. See also ¶21-21.20, below, where some cases formerly classified to ¶20 may be found.
- 20.1. — In general.
21. — Interests of former clients.
- 21.5. — Particular cases and problems.

I. THE OFFICE OF ATTORNEY.(Cont'd)

- (1). In general.
- (2). Government, employment by or representation of.
- (3). Organizations and corporations, employment by or representation of.
- (4). Labor relations.
- (5). Insurance.
- (6). Bankruptcy.
- (7). Grand jury.
- (8). Patent law.
- 21.10. — Disclosure, waiver, or consent.
- 21.15. — Partners and associates.
Excludes cases appropriate for ¶21.5(2-4), above.
- 21.20. Disqualification proceedings; standing.
22. Acting in different capacities; counsel as witness.
Excludes competency as witness, see WITNESSES ¶67.
23. Assignment as counsel by the court.
24. Liability for costs; sanctions.
Excludes imposition of sanctions in federal civil cases, see FEDERAL CIVIL PROCEDURE ¶2750 et seq. and various lines in discovery section of that topic dealing with noncompliance with discovery requests.
25. Liability for officers' fees.
26. Duties and liabilities to adverse parties and to third persons.
See also MALICIOUS PROSECUTION; abuse of process, see PROCESS IV; interference with contract, business relations, or economic expectancies, see TORTS III; invasion of privacy, see TORTS IV.
27. Liabilities of third persons to attorneys.
Interference with attorney-client relationship, or business or contractual relations in general, see TORTS III.
28. Licenses and taxes.
29. Attorneys' clerks and agents.
30. Partnership of attorneys; law firms.
 - (1). In general.
 - (2). Property of firm.
 - (3). Rights, duties, and liabilities of members.
 - (4). — In general.
 - (5). — Profits and losses; compensation.
 - (6). Liability of firm.
 - (7). Agents and employees.
 - (8). — In general.
 - (9). — Attorneys; associates.
 - (10). Alteration in membership or business.

45. ATTORNEY AND CLIENT

I. THE OFFICE OF ATTORNEY.(Cont'd)

- (11). Dissolution, settlement, and accounting.
- (12). — In general.
- (13). — Client fees.
- (14). Limited partnerships.
- (15). Limited liability partnerships.
- (16). Non-partnership forms of organization.
- (17). — In general.
- (18). — Limited liability companies.
- (19). — Corporations.
- (20). — Professional associations.
- 30.5. Legal aid organizations.
 - (1). In general.
 - (2). Federal aid; Legal Services Corporation.
- 31. Bar associations.
Injunctive relief, see INJUNCTION ¶1370.
- 32. Regulation of professional conduct, in general.
 - (1). In general.
 - (2). Standards, canons, or codes of conduct.
 - (3). Power and duty to control.
 - (4). Attorney's conduct and position in general.
 - (5). Persons subject to regulations.
 - (6). Limitations on duty to client, in general.
 - (7). Miscellaneous particular acts or omissions.
 - (8). Dignity, decorum, and courtesy; criticism of courts.
 - (9). Advertising or soliciting.
 - (10). Duty to accept or decline representation.
 - (11). Frivolous, vexatious, or meritless claims.
 - (12). Relations, dealings, or communications with witness, juror, judge, or opponent.
 - (13). Client's confidences, in general.
 - (14). Candor, and disclosure to opponent or court.
 - (15). Extrajudicial comments.
- 33. Offenses in exercise of professional functions.

(C) DISCIPLINE.

- 34. Tenure of office in general.
- 36. Jurisdiction of courts.
 - (1). In general.
 - (2). Power of judge at chambers.
- 37. Grounds for discipline.
See also ¶59.1 through ¶59.18 for cases in which it appears that the degree of punishment is stressed.
- 37.1. — In general.
- 38. — Character and conduct.
- 39. — Criminal offenses and conviction thereof.
- 40. — Admission fraudulently procured.
- 41. — Falsification or abstraction of records or papers.
- 42. — Deception of court or obstruction of administration of justice.
- 43. — Contempt of court.
- 44. — Misconduct as to client.
 - (1). In general.
 - (2). Misappropriation and failure to account.
- 45. — Misconduct in other than professional capacity.
- 46. Defenses.
- 47. Proceedings.
 - 47.1. — In general.
- 48. — Notice and preliminary proceedings.
- 49. — Nature and form in general.
- 50. — Conditions precedent.
- 51. — Parties entitled to prosecute.
- 52. — Charges and answers thereto.
- 53. — Evidence.
 - (1). In general.
 - (2). Weight and sufficiency.
- 54. — Trial or hearing.
- 55. — New trial or rehearing.
- 56. — Judgment or order.
- 57. — Review.
- 59. — Costs.
- 59.1. Punishment; disposition.
- 59.2. — In general.
- 59.3. — Nature and purpose.
- 59.4. — Discretion.
- 59.5. — Factors considered.
 - (1). In general.
 - (2). Standards and guidelines.
 - (3). Comparable disposition within jurisdiction.
 - (4). Factors in aggravation.

45. ATTORNEY AND CLIENT

I. THE OFFICE OF ATTORNEY.(Cont'd)

- (5). Factors in mitigation.
- (6). Other factors.
- 59.6. — Presumptive, baseline, or preliminary potential sanction.
- 59.7. — Private reprimand; private censure; private admonition.
- 59.8. — Public reprimand; public censure; public admonition.
 - (1). In general.
 - (2). Mishandling of trust account or client funds.
 - (3). Commission of crime.
- 59.9. — Caution; warning.
- 59.10. — Restitution.
- 59.11. — Fine.
- 59.12. — Resignation; voluntary surrender of license.
- 59.13. — Suspension.
 - (1). In general.
 - (2). Definite suspension.
 - (3). — In general.
 - (4). — Mishandling of trust account or client funds.
 - (5). — Commission of crime.
 - (6). Indefinite suspension.
 - (7). — In general.
 - (8). — Physical or mental incapacity.
 - (9). — Mishandling of trust account or client funds.
 - (10). — Commission of crime.
- 59.14. — Disbarment; revocation of license.
 - (1). In general.
 - (2). Mishandling of trust account or client funds.
 - (3). Commission of crime.
 - (4). — In general.
 - (5). — Crime of moral turpitude.
 - (6). Automatic disbarment.
 - (7). Permanent disbarment.
- 59.15. — Other disposition.
Injunctive relief, see INJUNCTION §1370.
- 59.16. — Revocation of pro hac vice status.
- 59.17. — Probation; conditional disposition; stay.
 - (1). In general.
 - (2). Conditions.

I. THE OFFICE OF ATTORNEY.(Cont'd)

- (3). — In general.
- (4). — Violation.
- (5). Revocation of probation.
- 59.18. — Reciprocal discipline; effect of other discipline.
- 60. Operation and effect.
- 61. Reinstatement.

II. RETAINER AND AUTHORITY.

- 62. Rights of litigants to act in person or by attorney.
Excludes construction of pro se or lay pleadings, see FEDERAL CIVIL PROCEDURE §657.5 or *PLEADING* §34(3.5).
- 63. The relation in general.
- 64. What constitutes a retainer.
- 66. Compelling disclosure of name, residence, or address of client.
- 68. Proof of authority.
 - 68.1. — In general.
- 69. — Necessity.
- 70. — Presumptions.
- 71. — Objections to authority.
- 72. — Evidence of authority.
- 73. — Warrant or other written authority.
- 74. — Determination.
- 75. Change and substitution.
 - (1). In general.
 - (2). Payment of attorney.
 - (3). Protection of lien.
- 76. Termination of relation.
 - (.5). In general.
 - (1). Act of parties.
 - (2). Death.
 - (3). Insanity.
 - (4). Determination of controversy.
- 77. Scope of authority in general.
- 78. Employment and authority of counsel.
- 79. Delegation of authority.
- 80. Disposition of moneys or other property of client.
- 81. Contracts on behalf of client.
- 82. Notice and demand.
- 83. Submission to arbitration.
- 84. Submission of controversy without action.
- 85. Confession of or consent to judgment.
- 86. Stipulations and admissions.
- 87. Commencement and conduct of litigation.
- 88. — In general.

45. ATTORNEY AND CLIENT

II. RETAINER AND AUTHORITY.(Cont'd)

- 89. — Bringing or defending and dismissal of action.
- 90. — Control of process and service.
- 91. — Interlocutory and incidental proceedings.
- 92. — Conduct of trial.
- 93. — Control of judgment.
- 94. — Control of execution.
- 95. — Control of judicial sale.
- 96. — Prosecution of appeal or other proceeding for review.
- 97. Receiving payment or security.
- 98. — In general.
- 99. — Mode or form of payment or security.
- 100. — Satisfaction of judgment or execution.
- 101. Settlements, compromises, and releases.
 - (1). In general.
 - (2). Receiving less than amount of judgment.
- 102. Liabilities of client for injuries to adverse party or third persons.
- 103. Ratification by client.
- 104. Notice to attorney.

III. DUTIES AND LIABILITIES OF ATTORNEY TO CLIENT.

- 105. In general.
- 105.5. Elements of malpractice or negligence action in general.
- 106. Nature of attorney's duty.
- 107. Skill and care required.
- 108. Instructions of client.
- 108.5. Files of attorney or client.
- 109. Acts and omissions of attorney in general.
- 110. Collection of demands.
- 111. Unauthorized appearance.
- 112. Conduct of litigation.
- 112.50. Research and knowledge of law.
- 113. Acting for party adversely interested.
- 114. Fraud.
- 115. Acts and omissions of partners and associates.
- 116. Accounting and payment to client; client's funds or property.
- 117. — In general.
- 118. — Individual interest of attorney.

III. DUTIES AND LIABILITIES OF ATTORNEY TO CLIENT.(Cont'd)

- 119. — Acts or defaults of partners and associates.
- 120. — Liability for interest.
- 121. — Persons entitled.
- 122. Dealings between attorney and client.
- 123. — In general.
 - (1). In general.
 - (2). Conveyances, mortgages and assignments.
- 124. — Payment of or security for compensation.
- 125. Acquiring property adversely to interest of client.
- 126. Summary remedies of client.
 - (1). In general.
 - (2). Proceedings and relief.
- 127. Proceedings for accounting.
- 128. Actions for money collected.
- 129. Actions for negligence or wrongful acts.
 - (1). In general; limitations.
See also LIMITATION OF ACTIONS.
 - (2). Pleading and evidence.
 - (3). Trial and judgment.
 - (4). Damages and costs.
- 129.5. Client security funds.

IV. COMPENSATION.

- 130. Right to compensation in general.
- 131. Statutory regulations.
- 132. Services under assignment by court.
- 133. Employment of attorney.
- 134. Premature termination of relation.
 - (1). In general.
 - (2). Under contract for contingent fee.
- 135. Performance of services.
- 136. Persons entitled.
- 137. Retaining fee.
- 138. Statutory fees, and taxed costs.
- 139. Value of services.
- 140. — In general.
- 141. — Specific services and particular cases.
- 142. Contracts for compensation.
 - 142.1. — In general.
- 143. — Making, requisites, and validity.
- 144. — Construction and operation.
- 145. — Performance.

45. ATTORNEY AND CLIENT

IV. COMPENSATION.(Cont'd)

- 146. Contingent fees.
- 146.1. — In general.
- 147. — Requisites and validity of contract.
- 148. — Construction and operation of contract.
 - (1). In general.
 - (2). Effect as creating interest in subject-matter of litigation.
 - (3). Amount of fee.
- 149. — Performance of contract.
- 150. — Effect of premature termination or settlement of action.
- 151. Contracts for division, and apportionment.
- 152. Reimbursement of expenses.
- 153. Deductions and forfeitures.
- 154. Retainer from funds in hands of attorney.
- 155. Allowance and payment from funds in court.
- 156. Summary remedies to compel payment.
- 157. Actions for compensation.
- 157.1. — In general.
- 158. — Nature and form.
- 159. — Grounds of action.
- 160. — Conditions precedent.
- 161. — Defenses.
- 162. — Time to sue, and limitations.
See also LIMITATION OF ACTIONS.
- 163. — Parties.
- 164. — Process and appearance.
- 165. — Pleading.
- 166. — Evidence.
 - (1). In general.
 - (2). Employment.
 - (3). Value of services or amount of compensation.
 - (4). Performance.
 - (5). Payment.
- 167. — Trial.
 - (1). In general.
 - (2). Questions for jury.
 - (3). Instructions.
 - (4). Verdict and findings.
- 168. — Judgment and enforcement thereof.
- 169. — Appeal or error.

V. LIEN.

- 171. Nature of attorney's lien.
- 172. Statutory provisions.
- 173. Right to lien.
- 174. — In general.
- 175. — Nature of services or fees.
- 176. — Effect of contracts.
- 177. — Persons entitled.
- 178. Proceedings to perfect.
- 179. — In general.
- 180. — Notice.
- 181. Services or fees covered.
- 182. Subject-matter to which lien attaches.
 - (1). In general.
 - (2). Judgment or proceeds thereof.
 - (3). Securities and papers.
 - (4). Land.
- 183. Time when lien attaches.
- 184. Priorities.
- 185. Assignment of lien or claim.
- 186. Waiver, loss, or discharge.
- 187. Protection against assignment by client.
- 188. Protection against settlement between parties.
- 189. — In general.
- 190. — Remedies of attorney.
 - (1). In general.
 - (2). Vacation of settlement and proceeding with original suit.
 - (3). New action against adverse party.
 - (4). Proceedings.
- 191. Protection against set-off between parties.
- 192. Enforcement.
 - (1). In general.
 - (2). Proceedings.

46. ATTORNEY GENERAL

SUBJECTS INCLUDED

Chief law officer in the government of the United States and of each state
Appointment, qualification and tenure of office

48. AUDITA QUERELA

Rights, powers, duties and liabilities of the attorney general and his assistants, deputies, etc., in general

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Particular proceedings by or in the name of the attorney general, see CORPORATIONS AND BUSINESS ORGANIZATIONS, QUO WARRANTO, ESCHEAT and other specific topics

1. Appointment, qualification, and tenure.
2. Deputies, assistants, and substitutes.
3. Compensation.
4. Representation of state in general.
5. Powers and duties.
6. — In general.
7. — Bringing and prosecution of actions.
8. Liabilities.
9. Actions and other proceedings.

47. AUCTIONS AND AUCTIONEERS

SUBJECTS INCLUDED

Regulation and conduct of sales by auctions

Rights, duties and liabilities of auctioneers and of sellers and buyers at auctions in general

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Frauds, statute of, requirements, as to sales, see FRAUDS, STATUTE OF

Conduct and validity of sales held pursuant to court order or under special statutory requirements, see CREDITORS' REMEDIES, EXECUTORS AND ADMINISTRATORS, JUDICIAL SALES, TAXATION, and other specific topics

1. Power to regulate.
2. Statutory and municipal regulations.
3. Persons subject to regulation; public auctioneers.
4. Licenses and taxes.
5. Bonds.

6. Agency of auctioneer.
7. Conduct and validity of sale.
8. Rights and liabilities of seller and buyer.
9. Liabilities of auctioneer and clerk.
10. Compensation and lien of auctioneer.
11. Actions by or against auctioneers.
12. Penalties for violations of regulations.
13. Offenses by auctioneers.

48. AUDITA QUERELA

SUBJECTS INCLUDED

Relief of judgment debtors against judgments and executions on grounds of defense or discharge subsequently arising, by independent proceedings therefor

Nature and scope of the remedy in general; in what cases and as to what judgments and executions it is allowed

Grounds for, jurisdiction to grant, and proceedings to obtain writs of audita querela

Requisites, issuance and effect of the writ, proceedings thereon, and effect of decisions thereon

Review of the proceedings and costs thereon

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Equitable grounds, relief on, see JUDGMENT

Motions and other proceedings in the same action, relief by, see JUDGMENT, CREDITORS' REMEDIES

Stay of, or injunction against, execution, see CREDITORS' REMEDIES

Supersedeas, see SUPERSEDEAS

1. Nature and scope of remedy.
2. Judgments subject to review.
3. Grounds for review.
4. Proceedings to procure review, and effect thereof.
5. Writ and service.
6. Pleading.
7. Evidence.
9. Judgment.

48. AUDITA QUERELA

10. Appeal or error.
11. Costs.
12. Liabilities on bonds and recognizances.

48A. AUTOMOBILES

SUBJECTS INCLUDED

Regulation and licensing of motor vehicles and motor carriers
Licensing and regulation of drivers
Rights in and use of highways and other public places
Injuries to highways, to motor vehicles, and to occupants of private vehicles
Injuries from defects in, or negligent or wrongful use of, motor vehicles, other than as public carriers, or to employees
Injuries from defects in, or obstruction of, highways or other public places
Liabilities for such injuries and actions to enforce such liabilities, including statutory and punitive damages
Accident indemnity funds
Violation of regulations as offenses, and prosecution and punishment thereof
Filling stations, garages, repairmen, and rental agencies

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Compensatory damages for injuries, see DAMAGES
Employers' rights, duties and liabilities as to their employees, see LABOR AND EMPLOYMENT, WORKERS' COMPENSATION
General contractual rights, duties and liabilities, and consideration of motor vehicles as property, see BAILMENT, CARRIERS, CHATTEL MORTGAGES, EXEMPTIONS, INSURANCE, SALES, SECURED TRANSACTIONS, TAXATION and other specific topics
Manufacturers and sellers, liability of, see PRODUCTS LIABILITY
Motor carriers' rights, duties, and liabilities as to passengers and freight, see CARRIERS

Particular offenses not involving motor vehicle regulations nor direct injuries from negligent or wrongful use of motor vehicles, see CUSTOMS DUTIES, INTOXICATING LIQUORS, LARCENY, RECEIVING STOLEN GOODS and other specific topics

Particular remedies, see CREDITORS' REMEDIES, REPLEVIN, and other specific topics

Railroads and street railroads, injuries from operation of, see RAILROADS, URBAN RAILROADS

I. CONTROL, REGULATION, AND USE IN GENERAL, ¶1-20.

II. LICENSE AND REGISTRATION OF PRIVATE VEHICLES, ¶21-57.

III. PUBLIC SERVICE VEHICLES, ¶58-128.

(A) CONTROL AND REGULATION IN GENERAL, ¶58-64.

(B) LICENSE AND REGISTRATION, ¶65-108.

(C) REGULATION OF OPERATION AND MANAGEMENT, ¶109-128.

IV. LICENSE AND REGULATION OF CHAUFFEURS OR OPERATORS, ¶129-145.

V. INJURIES FROM OPERATION, OR USE OF HIGHWAY, ¶146-251.19. 28

(A) NATURE AND GROUNDS OF LIABILITY, ¶146-227.5.

(B) ACTIONS, ¶228-251.

(C) ACCIDENT INDEMNITY FUNDS, ¶251.1-251.10.

(D) EFFECT OF NO FAULT STATUTES, ¶251.11-251.19. 20

VI. INJURIES FROM DEFECTS OR OBSTRUCTIONS IN HIGHWAYS AND OTHER PUBLIC PLACES, ¶252-314.

(A) NATURE AND GROUNDS OF LIABILITY, ¶252-290.

(B) ACTIONS, ¶291-314.

VII. OFFENSES, ¶315-361.

(A) IN GENERAL, ¶315-348.

(B) PROSECUTION, ¶349-358.

(C) SENTENCE AND PUNISHMENT, ¶359.1-359.6.

(D) REVIEW, ¶360.

(E) COSTS, ¶361.

VIII. GARAGE KEEPERS, REPAIRMEN, AUTO LIVERYMEN, AND FILLING STATIONS, ¶362-410.

IX. EVIDENCE OF SOBRIETY TESTS, ¶411-426.

48A. AUTOMOBILES

I. CONTROL, REGULATION, AND USE IN GENERAL.

1. What are automobiles or motor vehicles.
2. Applicability to automobiles of regulations affecting other vehicles.
3. Means of conveyance in general.
4. Right to use motor vehicles on highways.
5. Power to regulate or prohibit.
 - (1). In general.
 - (2). Equipment, lights, and signals.
 - (3). Stopping, parking, or standing.
 - (4). Speed and control.
 - (5). Traffic regulations.
6. Constitutional and statutory provisions.
7. Local regulations.
8. Delegation of municipal powers.
9. Concurrent and conflicting regulations.
10. Subjects of regulations in general.
11. Construction and operation of regulations in general.
12. Parking or standing.
13. Highways affected by regulations.
14. One way streets.
15. Injuries to highways.
17. Injuries from defects in private premises.
19. Sale or transfer.
See also SALES.
20. Certificate of title.

II. LICENSE AND REGISTRATION OF PRIVATE VEHICLES.

21. Nature of license.
22. Power to license or tax.
23. — In general.
24. — States.
25. — Counties.
26. — Municipal corporations.
27. — Delegation of power.
28. Constitutionality and validity of acts and ordinances.
29. Statutory provisions.
30. Municipal ordinances.
31. Ownership of vehicles.
32. — In general.
33. — Association or joint owners.
34. — Persons doing business in fictitious or trade-name.
35. — Dealers.
36. — Nonresidents.

II. LICENSE AND REGISTRATION OF PRIVATE VEHICLES.(Cont'd)

37. Eligibility for and vehicles subject to license.
38. Licensing officers, agents, and contractors.
39. Proceedings to procure license or certificate.
40. Form and requisites of license or certificate.
41. License plates.
42. Conditions imposed.
43. Bond or other security.
44. License fees and taxes.
45. — In general.
46. — Amount.
47. — Lien.
48. — Payment and collection.
49. — Disposition of moneys collected.
See also 251.1-251.8.
50. — Refunding or recovering.
51. — Remedies for wrongful collection.
52. Construction and effect of license.
53. Death of owner.
54. Transfer of rights.
55. Revocation, forfeiture, or suspension of license.
56. Rights, remedies, and liabilities respecting unlicensed or unregistered vehicles.
57. Damages and penalties.

III. PUBLIC SERVICE VEHICLES.

(A) CONTROL AND REGULATION IN GENERAL.

58. Right to use highways.
59. Power to control and regulate.
60. Constitutional and statutory provisions.
61. Local regulations.
62. Concurrent and conflicting regulations.
63. Supervision by public officers.
64. Judicial supervision.

(B) LICENSE AND REGISTRATION.

65. Nature of license.
66. Power to license or tax.
67. — In general.
68. — United States.
69. — States.
70. — Counties.
71. — Municipal corporations.

48A. AUTOMOBILES

III. PUBLIC SERVICE VEHICLES.(Cont'd)

72. — Delegation of power.
73. Constitutionality and validity of acts and ordinances.
74. Statutory provisions.
75. Municipal ordinances.
76. Who are carriers.
77. Necessity of license or certificate of public convenience and necessity.
78. Eligibility for and vehicles subject to license or certificate.
79. Character of applicant.
80. Licensing officers, agents, and contractors.
81. Proceedings to procure license or certificate.
82. — In general.
83. — Determination as to necessity for right to operate.
84. — Review.
85. — Collateral attack.
86. Form and requisites of license or certificate.
87. Conditions imposed.
88. Bonds or other security.
89. — In general.
90. — Necessity.
91. — Amount.
92. — Nature of security.
93. — Form and sufficiency.
94. — Liabilities secured.
95. — Actions.
96. License fees and taxes.
97. — In general.
98. — Amount.
99. — Lien.
100. — Payment or collection.
101. — Disposition of moneys collected.
102. — Refunding or recovering.
103. — Remedies for wrongful assessment or collection.
104. Construction and effect of license.
105. Transfer of rights.
106. Revocation, forfeiture, or suspension of license.
107. Failure to comply with laws requiring license or registration.
 - (.5). In general.
 - (1). Effect.

III. PUBLIC SERVICE VEHICLES.(Cont'd)

- (2). Proceedings to enforce or to prevent enforcement of regulations.
 108. Damages and penalties.
- (C) REGULATION OF OPERATION AND MANAGEMENT.**
109. Authority, construction, and operation in general.
 110. Companies, persons, or vehicles affected by regulations.
 111. Conduct of business in general.
 112. Facilities for shipment of goods.
 113. Accommodations for passengers.
 114. Bus and truck service.
 115. Equipment.
 116. Employees and contractors.
 117. Lights, signals, and lookouts.
 118. Rate of speed.
 119. Stopping, parking, or standing.
 120. Annoyance to public.
 121. Fares.
 122. Reports and statements.
 123. Franchises and powers.
 124. Exclusive or conflicting franchises.
 125. Interference with railroad or street railroad franchises.
 126. Interstate transportation.
 127. Proceedings to enforce or to prevent enforcement of regulations.
 128. Damages and penalties for violation of regulations.

IV. LICENSE AND REGULATION OF CHAUFFEURS OR OPERATORS.

129. Who are chauffeurs or operators.
130. Control and regulation in general.
131. Operators of public service vehicles.
132. Constitutional and statutory provisions.
135. License and registration.
136. — In general.
- 136.5. — Constitutional and statutory provisions.
137. — Purpose and necessity.
138. — Eligibility for license.
139. — Proceeding to procure.
141. — License fees.
142. — Construction and effect.

48A. AUTOMOBILES

IV. LICENSE AND REGULATION OF CHAUFFEURS OR OPERATORS.(Cont'd)

- 143. — Transfer of rights.
- 144. Suspension or revocation of license.
- 144.1. — In general; grounds.
 - (1). In general.
Excludes evidence of sobriety tests administered to motorists; see AUTOMOBILES ¶411-426.
 - (1.5). Constitutional and statutory provisions.
 - (1.10). Intoxication; implied consent.
Excludes administration of sobriety tests and evidence of such tests, see ¶411-426, below.
 - (1.11). — In general.
 - (1.20). — Refusal to take test.
 - (2). Gross or culpable negligence; recklessness, racing or speeding.
 - (3). Repeated or out-of-state misconduct; point system.
 - (4). Financial responsibility requirements.
- 144.2. — Procedure.
 - (.5). In general.
 - (1). Administrative procedure in general.
 - (2). Judicial remedies and review in general.
 - (2.1). — In general.
 - (3). — Scope of review; discretion and fact questions.
 - (4). — Trial de novo and determination.
 - (5). Procedure in or arising out of criminal prosecutions.
 - (5.1). — In general.
 - (6). — Warning as to possible consequences of conviction.
 - (7). Procedure under financial responsibility requirements.
 - (9). Evidence and witnesses.
 - (9.5). — In general.
 - (9.6). — Presumptions and burden of proof.
 - (9.7). — Admissibility.
 - (10). Weight and sufficiency of evidence.
 - (10.1). — In general.
 - (10.2). — Intoxication and implied consent in general.
 - (10.3). — Refusal of test.

IV. LICENSE AND REGULATION OF CHAUFFEURS OR OPERATORS.(Cont'd)

- (11). — Gross or culpable negligence, recklessness, racing or speeding.
- (12). — Repeated or out-of-state misconduct; point system.
- (13). — Financial responsibility.
- 144.5. — Nature and extent of discipline in general; hardship and mitigating circumstances.
- 144.7. — Reinstatement or new license, in general.
- 144.8. — Ignition interlock and similar mechanisms.
- 145. Rights and liabilities of unlicensed or unregistered chauffeurs or operators.

V. INJURIES FROM OPERATION, OR USE OF HIGHWAY.

(A) NATURE AND GROUNDS OF LIABILITY.

- 146. Care required and liability in general.
- 147. Requirements of statutes and ordinances in general.
- 148. Equipment.
- 149. Lights on vehicles.
- 150. Lookout.
- 151. Signals and warnings.
- 152. Customary methods and acts.
- 153. Law of road.
- 154. Right of way.
- 155. Injuries to persons or property not on highway.
- 156. Defects in vehicles.
- 157. Incompetency or inexperience of operator.
- 158. Willful, wanton, or reckless acts or conduct.
- 159. Acts in emergencies.
- 160. Persons on foot in general.
 - (1). In general.
 - (2). Defects or obstructions in street or way.
 - (3). Lights, signals, and lookouts.
 - (4). Crossing street or way.
 - (5). Walking along street or way.
 - (6). Persons on sidewalk.
- 161. Persons under disability in general.
- 162. Children.
 - (1). In general.

48A. AUTOMOBILES

V. INJURIES FROM OPERATION, OR USE OF HIGHWAY.(Cont'd)

- (2). Lights, signals, and lookouts.
- (3). Duty to stop.
- (4). Backing vehicle.
- (5). Crossing street or way.
- (6). Walking along street or way.
- (7). Bicycle riders.
- (8). Playing or coasting in street or way.
- 163. Persons working on or in highway.
 - (1). In general.
 - (2). Lights, signals, and lookouts.
 - (3). Railway employees.
 - (4). Policemen or other public employees.
 - (5). Repairing vehicles or appliances.
- 164. Persons moving to or from street cars.
- 165. Persons entering or leaving vehicles other than street cars.
- 166. Persons emerging from behind obstructions.
- 167. Entering or leaving private premises or alleys.
 - (1). In general.
 - (2). Lights, signals, and lookouts.
 - (3). Right of way.
 - (4). Care required.
- 168. Excessive speed, control, and racing.
 - (5). In general.
 - (1). Care required and liability in general.
 - (2). Requirements of statutes and ordinances in general.
 - (3). Nature and condition of highway.
 - (4). Meeting other vehicles or persons.
 - (5). Passing other vehicles or persons.
 - (6). Intersections and crossings.
 - (7). Corners and curves.
 - (8). Darkness or fog.
 - (9). Obstruction of view.
 - (10). Racing.
 - (10.1). — In general.
 - (11). — Injuries to spectators.
 - (12). Persons entitled to benefit of regulations.
- 169. Stopping, backing, or turning in general.
- 170. Meeting.
 - (1). In general.

V. INJURIES FROM OPERATION, OR USE OF HIGHWAY.(Cont'd)

- (2). Requirements of statutes and ordinances.
- (3). Customary methods and acts.
- (4). Lights, signals, and lookouts.
- (5). Duty to stop.
- (6). Nature of vehicles.
- (7). Character and condition of road.
- (8). Intersections and crossings.
- (9). Curves and corners.
- (10). Bicycle riders.
- (11). Persons on horseback.
- (12). Care required as to persons violating law of the road.
- (13). Time and place for turning out.
- (14). Extent of turning from traveled way.
- (15). Return to traveled way.
- (16). Meeting outside of traveled way.
- (17). Streets or boulevards divided by parkways, safety zones, etc.
- 171. Crossing.
 - (1). In general.
 - (2). Requirements of statutes and ordinances.
 - (3). Customary methods and acts.
 - (4). Right of way.
 - (4.1). — In general.
 - (5). — Nature of way, crossing, or intersection.
 - (6). — Change of course.
 - (7). — Horse-drawn vehicles.
 - (8). Care required in general.
 - (9). Lights, signals, and lookouts.
 - (10). Obstruction of view.
 - (11). Duty to stop.
 - (12). Manner of turning.
 - (13). Reliance on care of others.
- 172. Following, overtaking, and passing.
 - (1). In general.
 - (2). Requirements of statutes and ordinances.
 - (3). Right to pass.
 - (4). Notice of intention to pass.
 - (5). Duties of forward vehicle.
 - (5.1). — In general.
 - (6). — Stopping, backing, or turning.

48A. AUTOMOBILES

**V. INJURIES FROM OPERATION, OR
USE OF HIGHWAY.(Cont'd)**

- (7). Care required of following vehicle.
- (8). Care required of passing vehicle.
- (9). Collision with approaching vehicle.
- (10). Duties after passing.
- (11). Approaching intersections.
- (12). Passing vehicles turning into private ways.
- (13). Passing bicycle riders.
- (14). Passing street cars.
- (15). Passing at intersections or crossings.
- 173. Vehicles at rest or unattended.
 - (1). In general.
 - (2). Requirements of statutes and ordinances.
 - (3). Right to stop or park vehicle in street or way in general.
 - (4). Place of stopping or parking.
 - (5). Lights, signals, and warnings.
 - (6). Passing vehicle parked or standing.
 - (7). Vehicles stopped for repairs.
 - (8). Precautions against starting of vehicle.
- 174. Towing vehicles and vehicles in tow.
 - (1). In general.
 - (2). Requirement of statutes and ordinances.
 - (3). Right to tow.
 - (4). Lights, signals, and lookouts.
- 175. Vehicles used in saving life or property, or enforcing law.
 - (1). In general.
 - (2). Requirements of statutes and ordinances.
 - (3). Right of way.
 - (4). Speed and control.
 - (5). Lights, signals, and lookouts.
- 176. Injuries to animals.
 - (1). In general.
 - (2). Requirements of statutes and ordinances.
 - (3). Animals running at large.
 - (4). Dogs.
 - (5). Animals driven on highway.
- 177. Frightening animals.
 - (1). In general.

**V. INJURIES FROM OPERATION, OR
USE OF HIGHWAY.(Cont'd)**

- (2). Appearance of vehicle.
- (3). Animals not under control.
- (4). Manner of operating vehicle.
- (5). Starting vehicle or motor.
- (6). Speed.
- (7). Lookouts, signals, and warnings.
- (8). Duty to stop vehicle or motor.
- (9). Duty to render assistance.
- 179. Injuries to railroad or street cars or occupants thereof.
- 180. Articles projecting, falling, or thrown from vehicle.
- 181. Liability of private owner or operator to occupant.
 - (5). In general.
 - (1). Care required and liability in general.
 - (2). Who are passengers, guests, or licensees.
 - (3). Carriage for hire.
 - (4). Trespassers.
 - (5). Defects in vehicle.
 - (6). Defects in roads.
 - (7). Speed and control.
- 182. Rights of person injured.
- 183. Persons liable.
- 184. — In general.
- 185. — Statutory and local regulations.
- 186. — Owners in general.
- 187. — Government; immunity and waiver thereof.
 - (1). In general.
 - (2). Municipal corporations; districts.
 - (3). Counties.
 - (4). States.
 - (5). United States.
 - (6). Personal liability of employees; official immunity.
- 188. — Infants.
- 189. — Insane persons.
- 190. — Husband and wife.
- 191. — Parent and child.
- 192. — Owner's liability for acts of third person in general.
 - (1). In general.
 - (2). Defects in vehicles.
 - (3). Lights and equipment.

48A. AUTOMOBILES

V. INJURIES FROM OPERATION, OR USE OF HIGHWAY.(Cont'd)

- (4). Co-owners.
- (5). Community liability for acts of husband or wife.
- (6). Borrower or hirer.
- (7). Prospective purchasers or sales agents.
- (8). Buyer under conditional sale.
- (9). Servants of others.
- (10). Persons employed by or assisting operator.
- (11). Permitting operation by incompetent person.
- (12). Presence of owner in vehicle.
- 193. — Owner's liability for acts of servant or agent.
 - (1). In general.
 - (2). Statutory or local regulations.
 - (3). Relation of parties.
 - (3.1). — In general.
 - (4). — Persons employed by or assisting servants.
 - (5). — Servants employed by or under control of third persons.
 - (6). — Termination of relation.
 - (7). Nature of agency.
 - (8). Scope of employment.
 - (13). Incompetency of servant.
 - (14). Deviation from instructions.
 - (15). Willful and malicious acts of servant.
 - (16). Criminal acts of servant.
 - (17). Ratification or repudiation of acts of servant.
- 194. — Acts of independent contractors.
 - (1). In general.
 - (2). Existence of relationship in general.
 - (3). Possession of vehicle for repairs.
 - (4). Salesmen.
- 195. — Owner's liability for acts of member of family.
 - (1). In general.
 - (2). Liability as principal or master.
 - (3). Incompetency or inexperience of operator.
 - (4). Deviation from directions.
 - (5). Vehicle kept for use of family.
- 196. — Operators in general.

V. INJURIES FROM OPERATION, OR USE OF HIGHWAY.(Cont'd)

- 197. — Persons other than owners or operators in general.
 - (1). In general.
 - (2). Employment-related issues.
Employer-owned vehicles, see §193.
 - (3). Hirer or borrower.
 - (4). Husband or wife.
 - (5). Parent or child.
 - (6). Seller furnishing operator for purchaser.
- 198. — Occupants of vehicles driven by another.
 - (1). In general.
 - (2). Charge of vehicle or assisting in operation.
 - (3). Occupant as master or principal of operator.
 - (4). Joint enterprise.
- 199. — Towing vehicles and vehicles in tow.
- 200. — Joint and several liability.
- 201. Proximate cause of injury.
 - (.5). In general.
 - (1). Efficient cause of injury in general.
 - (1.1). — In general.
 - (2). — Speed and lack of control.
 - (3). — Defective equipment.
 - (4). — Frightening animals.
 - (5). — Vehicles at rest or unattended.
 - (6). Foreseeability; natural and probable consequences.
 - (7). Remote consequences.
 - (8). Concurrent causes.
 - (9). Intervening efficient cause.
 - (10). Inevitable accident.
- 202. Contributory negligence.
- 202.1. — In general.
- 203. — Right to use street or highway in general.
- 204. — Care required in general.
- 205. — Knowledge of danger.
- 206. — Reliance on care of person causing injury.
- 207. — Vehicles meeting.
- 208. — Vehicles crossing.
- 209. — Following, overtaking, or passing.

48A. AUTOMOBILES

V. INJURIES FROM OPERATION, OR USE OF HIGHWAY.(Cont'd)

- 210. — Vehicles used in saving life or property or enforcing law.
- 211. — Vehicles stopped or standing.
- 212. — Bicycle riders.
- 213. — Motorcycle riders.
- 214. — Owners, riders, or drivers of animals.
- 215. — Occupants or operators of railroad or street cars.
- 216. — Persons on foot in general.
- 217. — Persons crossing highway.
 - (1). In general.
 - (2). At intersections in general.
 - (3). Between intersections in general.
 - (4). Violation of traffic signals.
 - (5). Duty to stop, look, and listen.
 - (6). Crossing in front of approaching vehicle.
 - (7). Crossing diagonally.
 - (8). Private driveways.
 - (9). Obstruction of view.
- 218. — Persons walking along highway.
- 219. — Persons working on or in highway.
- 220. — Persons moving to or from street cars.
 - (1). In general.
 - (2). Duty to look.
 - (3). Reliance on care of person causing injury.
 - (4). Waiting for street car.
 - (5). Boarding street cars.
 - (6). Alighting from street car.
 - (7). Crossing street after alighting.
- 221. — Persons standing or sitting in highway.
- 222. — Persons under disability in general.
- 223. — Children.
 - (1). In general.
 - (2). Age and capacity of child.
 - (3). Care required in general.
 - (4). Duty to stop, look, and listen.
 - (5). Playing in highway.
 - (6). Boarding or alighting from moving vehicle.
 - (7). Bicycle riders.
 - (8). Coasting.
- 224. — Passenger, guest, or occupant.

V. INJURIES FROM OPERATION, OR USE OF HIGHWAY.(Cont'd)

- (1). In general.
- (2). Overloading or crowding.
- (3). Reliance on care of operator.
- (4). Duty to observe danger.
- (5). Duty to protest or prevent negligent or unlawful act.
- (6). Duty to leave vehicle.
- (7). Position in vehicle.
- (8). Riding with reckless, inexperienced, or intoxicated operator.
- 225. — Acts in emergencies.
- 226. — Effect of contributory negligence.
 - (1). In general.
 - (2). Proximate cause of injury.
 - (3). Comparative negligence and apportionment of fault.
- 227. — Injury avoidable notwithstanding contributory negligence; last clear chance.
- 227.5. — Imputed contributory negligence.

(B) ACTIONS.

- 228. Nature and form of remedy.
- 229. Grounds and conditions precedent in general.
- 229.5. What law governs.
- 230. Notice of claim for injury.
- 231. Defenses.
- 232. Jurisdiction and venue.

Personal jurisdiction over nonresidents, or "long-arm" jurisdiction, see COURTS ¶13.1, FEDERAL COURTS X.
- 233. Time to sue and limitations.

See also LIMITATION OF ACTIONS.
- 234. Parties.
- 235. Process.
- 236. Pleading.
- 237. — In general.
- 238. — Declaration, complaint, or petition.
 - (1). In general.
 - (2). Duty and liability of defendant.
 - (3). Negligence in general.
 - (4). Violation of statute or ordinance.
 - (5). Speed and control.
 - (6). Injuring or frightening animals.
 - (7). Wanton or willful acts or gross negligence.
 - (8). Proximate cause of injury.

48A. AUTOMOBILES

**V. INJURIES FROM OPERATION, OR
USE OF HIGHWAY.(Cont'd)**

- (9). Negating contributory negligence.
- (10). Injury avoidable notwithstanding contributory negligence.
- 239. — Plea or answer.
 - (1). In general.
 - (2). Contributory and comparative fault; apportionment.
- 240. — Issues, proof, and variance.
 - (1). In general.
 - (2). Evidence admissible under pleading.
 - (3). Variance between pleading and proof.
- 241. Evidence.
- 241.1. — In general.
- 242. — Presumptions and burden of proof.
 - (1). In general.
 - (2). Happening of accident or injury, in general.
 - (3). Violation of statutes or regulations, in general.
 - (4). Speed and control, in general.
 - (4.1). Rear-end collision.
 - (4.2). Vehicles meeting; wrong lane or side.
 - (4.3). Vehicles crossing; left turns.
 - (5). Ownership of vehicle.
 - (6). Status, identity, competency, or scope of employment of operator.
 - (7). Proximate cause of injury.
 - (8). Contributory and comparative negligence.
- 243. — Admissibility.
 - (1). In general.
 - (2). Identity and ownership of vehicle.
 - (3). Negligence in general.
 - (4). Customary methods and acts.
 - (5). Similar facts and transactions.
 - (6). Knowledge of defects in vehicles.
 - (7). Speed and control.
 - (8). Equipment.
 - (9). Lights.
 - (10). Signals and lookouts.
 - (11). License and registration.
 - (12). Status, identity, or scope of employment of operator.

**V. INJURIES FROM OPERATION, OR
USE OF HIGHWAY.(Cont'd)**

- (13). Injuring or frightening animals.
- (14). Conditions after accident.
- (16). Proximate cause of injury.
- (17). Contributory and comparative negligence; apportionment of fault.
- 244. — Weight and sufficiency.
 - (1). In general.
 - (2). Negligence.
 - (2.1). — In general.
 - (3). — Injury to person or property not on highway.
 - (4). — Willful, wanton, or reckless act.
 - (5). — Acts in emergencies.
 - (6). — Injuries to persons on foot.
 - (7). — Injuries to children.
 - (8). — Persons working on or in highway.
 - (9). — Persons moving to or from street cars.
 - (10). — Vehicles meeting.
 - (11). — Vehicles crossing.
 - (12). — Vehicles following, overtaking, or passing.
 - (13). — Collision with bicycle or motorcycle.
 - (14). — Vehicles at rest or unattended.
 - (15). — Towing vehicles or vehicles in tow.
 - (16). — Vehicles used in saving life or property or enforcing law.
 - (17). — Injuring or frightening animals.
 - (18). — Articles projecting, falling, or thrown from vehicles.
 - (19). — Railroad or street cars or occupants.
 - (20). — Operator injuring occupant.
 - (21). Violation of statute or ordinance in general.
 - (22). Identity and status of operator.
 - (22.1). — In general.
 - (23). — Husband and wife.
 - (24). — Parent and child.
 - (25). — Borrower or hirer.

48A. AUTOMOBILES

V. INJURIES FROM OPERATION, OR
USE OF HIGHWAY.(Cont'd)

- (26). — Agent or servant.
- (27). — Servants employed by or under control of third person.
- (28). — Acts of servant in behalf of himself or third person.
- (29). — Independent contractors.
- (30). — Owner's liability for acts of member of family.
- (31). Competency of operator.
- (32). Identity and ownership of vehicle.
- (33). Equipment and lights.
- (34). Signals and lookouts.
- (35). Speed and control.
- (36). Proximate cause of injury.
- (36.1). — In general.
- (37). — Speed and control.
- (38). — Equipment and lights.
- (39). — Frightening animals.
- (40). — Inevitable accident.
- (41). Contributory negligence.
- (41.1). — In general.
- (42). — Vehicles meeting.
- (43). — Vehicles crossing.
- (44). — Vehicles overtaking or passing.
- (45). — Vehicles stopped or standing.
- (46). — Bicycle riders.
- (47). — Motorcycle riders.
- (48). — Owners, riders, or drivers of animals.
- (49). — Persons on foot in general.
- (50). — Persons crossing highway.
- (51). — Persons walking along highway.
- (52). — Persons working on or in highway.
- (53). — Persons moving to or from street cars.
- (54). — Persons standing or sitting in highway.
- (55). — Children.
- (56). — Passenger, guest, or occupant.
- (57). — Acts in emergencies.
- (58). — Proximate cause of injury.

V. INJURIES FROM OPERATION, OR
USE OF HIGHWAY.(Cont'd)

- (59). — Injury avoidable notwithstanding contributory negligence.
 - (60). — Comparative negligence and apportionment of fault.
 - (61). — Imputed contributory negligence.
245. Questions for jury.
- (1). In general.
 - (2). Care required and negligence.
 - (2.1). — In general.
 - (3). — Driving on wrong side of road.
 - (4). — Injuries to persons or property not on highway.
 - (5). — Willful, wanton, or reckless acts.
 - (6). — Persons on foot.
 - (7). — Persons under disability.
 - (8). — Children.
 - (9). — Persons working on or in highway.
 - (10). — Persons moving to or from street cars.
 - (11). — Persons entering or leaving vehicles other than street cars.
 - (12). — Persons emerging from behind obstructions.
 - (13). — Vehicles meeting.
 - (14). — Vehicles crossing.
 - (15). — Vehicles following, overtaking, or passing.
 - (16). — Collision with bicycle or motorcycle.
 - (17). — Vehicles at rest or unattended.
 - (18). — Towing vehicles or vehicles in tow.
 - (19). — Vehicles used in saving life or property or enforcing law.
 - (20). — Injuring or frightening animals.
 - (22). — Injuries to railroad or street cars or occupants.
 - (23). — Articles projecting, falling, or thrown from vehicle.
 - (24). — Operator injuring occupant.

48A. AUTOMOBILES

**V. INJURIES FROM OPERATION, OR
USE OF HIGHWAY.(Cont'd)**

- (25). Violation of statute or ordinance in general.
- (26). Identity and status of operator.
- (26.1). — In general.
- (27). — Parent and child.
- (28). — Servant or agent.
- (29). — Servants employed by or under control of third person.
- (30). — Scope of employment.
- (31). — Acts of servant in behalf of himself or of third person.
- (32). — Independent contractors.
- (33). — Owner's liability for acts of member of family.
- (34). — Occupant of vehicle driven by another.
- (35). Competency of operator.
- (36). Identity and ownership of vehicle.
- (37). Place of accident.
- (38). Lights and equipment.
- (39). Lookout, signals, and warnings.
- (40). Speed and control.
- (40.1). — In general.
- (41). — Nature of highway.
- (42). — Meeting vehicles or persons.
- (43). — Passing vehicles or persons.
- (44). — Intersections and crossings.
- (45). — Corners and curves.
- (46). — Darkness or fog.
- (47). — Obstruction of view.
- (48). — Racing.
- (49). Acts in emergencies.
- (50). Proximate cause of injury.
- (50.1). — In general.
- (51). — Violation of law in general.
- (52). — Lights.
- (53). — Lookouts, signals and warnings.
- (54). — Incompetency of operator.
- (55). — Injuries to persons on foot.
- (56). — Injuries to persons under disability.
- (57). — Injuries to children.
- (58). — Injuries to persons moving to or from street cars.
- (59). — Speed and control.

**V. INJURIES FROM OPERATION, OR
USE OF HIGHWAY.(Cont'd)**

- (60). — Vehicles meeting, following, overtaking, and passing.
- (61). — Vehicles crossing.
- (62). — Vehicles at rest or unattended.
- (63). — Injuring or frightening animals.
- (64). — Concurrent causes.
- (65). — Intervening efficient cause.
- (66). — Inevitable accident.
- (67). Contributory negligence.
- (67.1). — In general.
- (68). — Violation of law.
- (69). — Lights on vehicles.
- (70). — Injuries to persons or property not on highway.
- (71). — Incompetency or inexperience of operator.
- (72). — Persons on foot in general.
- (73). — Persons under disability.
- (74). — Children.
- (75). — Persons working on or in highway.
- (76). — Persons moving to or from street cars.
- (77). — Persons entering or leaving vehicles other than street cars.
- (78). — Speed and control.
- (79). — Vehicles meeting.
- (80). — Vehicles crossing.
- (81). — Vehicles following, overtaking, and passing.
- (82). — Bicycle or motorcycle riders.
- (83). — Vehicles at rest or unattended.
- (84). — Injuring or frightening animals.
- (85). — Injuries to motor vehicle or occupant by collision with animals.
- (86). — Operators or occupants of railroad or street cars.
- (87). — Occupant injured by operator.
- (88). — Occupant injured by another vehicle.
- (89). — Acts in emergencies.

48A. AUTOMOBILES

V. INJURIES FROM OPERATION, OR USE OF HIGHWAY.(Cont'd)

- (90). — Proximate cause of injury.
- (91). — Injury avoidable notwithstanding contributory negligence.
- (92). — Comparative negligence and apportionment of fault.
- (93). — Imputed contributory negligence.

246. Instructions.

- (1). In general.
- (2). Care required and negligence.
- (2.1). — In general.
- (3). — Willful, wanton, or reckless acts or conduct.
- (4). — Persons on foot in general.
- (5). — Injuries to children.
- (6). — Persons moving to or from street cars.
- (7). — Vehicles stopping, backing or turning.
- (8). — Vehicles meeting.
- (9). — Vehicles crossing.
- (10). — Collision with bicycle or motorcycle.
- (11). — Vehicles following, overtaking, or passing.
- (12). — Injuring or frightening animals.
- (13). — Vehicles at rest or unattended.
- (14). Violation of statute or ordinance in general.
- (15). Identity and status of operator.
- (16). Competency of operator.
- (17). Identity and ownership of vehicle.
- (18). Lights and equipment.
- (19). Lookout, signals, and warnings.
- (20). Speed and control.
- (21). Acts in emergencies.
- (22). Proximate cause of injury.
- (23). Contributory negligence.
- (23.1). — In general.
- (24). — Reliance on care of person causing injury.
- (25). — Vehicles meeting or crossing.

V. INJURIES FROM OPERATION, OR USE OF HIGHWAY.(Cont'd)

- (26). — Vehicles following, overtaking, or passing.
- (27). — Vehicles at rest or unattended.
- (28). — Collision with bicycle or motorcycle.
- (29). — Owners, riders, or drivers of animals.
- (30). — Persons on foot in general.
- (31). — Persons crossing or walking along highway.
- (32). — Persons moving to or from street cars.
- (33). — Persons standing or sitting in highway or street.
- (34). — Persons under disability in general.
- (35). — Children.
- (36). — Passenger, guest or occupant.
- (37). — Acts in emergencies.
- (38). — Injury avoidable notwithstanding contributory negligence.
- (38.5). — Comparative negligence and apportionment of fault.
- (38.6). — Imputed contributory negligence.
- (39). Applicability to pleadings and evidence.
- (39.1). — In general.
- (40). — Violation of statute or ordinance in general.
- (41). — Equipment and lights on vehicles.
- (42). — Identity, status and competency of operator.
- (43). — Signals and warnings.
- (44). — Defects in vehicles.
- (45). — Willful, wanton, or reckless acts or conduct.
- (46). — Vehicles stopping, backing, or turning.
- (47). — Vehicles meeting or crossing.
- (48). — Vehicles following, overtaking, or passing.
- (49). — Persons on foot in general.

48A. AUTOMOBILES

V. INJURIES FROM OPERATION, OR USE OF HIGHWAY.(Cont'd)

- (50). — Persons crossing or walking along highway or street.
- (51). — Children.
- (52). — Persons moving to or from street cars.
- (53). — Persons standing or sitting in highway or street.
- (54). — Passenger, guest or occupant.
- (55). — Vehicles at rest or unattended.
- (56). — Speed and control.
- (57). — Proximate cause of injury.
- (58). — Contributory and comparative negligence; apportionment.
- (59). — Injuring or frightening animals.
- (60). Presumptions and burden of proof.
- 247. Verdict and findings.
- 248. Judgment and review.
- 249. Damages.
 - Compensatory damages for personal injuries, see DAMAGES.*
- 249.1. — In general.
- 249.2. — Punitive or exemplary damages; double or treble damages.
- 249.3. — Damage caps.
- 249.4. — Restrictions on uninsured or underinsured motorists.
- 250. Lien on vehicle for injuries.
- 251. Costs.

(C) ACCIDENT INDEMNITY FUNDS.

- 251.1. Uninsured or unknown motorists indemnity funds in general.
- 251.2. Statutory provisions.
- 251.3. Persons protected.
- 251.4. Limitation of liability.
- 251.5. Proceedings for compensation.
- 251.6. — Notice.
- 251.7. — Arbitration.
- 251.8. — Evidence.
- 251.9. — Other matters.

(D) EFFECT OF NO FAULT STATUTES.

- 251.11. In general.

V. INJURIES FROM OPERATION, OR USE OF HIGHWAY.(Cont'd)

- 251.12. Constitutional and statutory provisions.
- 251.13. Vehicles, persons or occurrences within restrictions.
- 251.14. "Threshold" requirement in general.
- 251.15. Nature of injury; serious or permanent injury.
- 251.16. Expenses included in threshold computation.
- 251.17. Elements of recovery; economic or non-economic loss.
- 251.18. Procedure peculiar to no fault cases; jurisdiction.
- 251.19. Evidence and fact questions; instructions.

VI. INJURIES FROM DEFECTS OR OBSTRUCTIONS IN HIGHWAYS AND OTHER PUBLIC PLACES.

(A) NATURE AND GROUNDS OF LIABILITY.

- 252. In general.
- 253. Requirements of statutes and ordinances.
- 254. Places to which liability extends.
- 255. Cause of or responsibility for defects, obstructions, or dangerous conditions.
- 256. Care required as to condition of way in general.
- 257. Sufficiency and safety of way in general.
- 258. Nature of defects.
- 259. Defective plan of construction.
- 260. Oil or tar on highway.
- 261. Embankments, excavations, and openings.
- 262. Water, snow, or ice.
- 263. Obstructions.
- 264. — In general.
- 265. — Poles and wires.
- 266. Failure to prevent or remove defects or obstructions.
- 267. Smoke or steam obstructing view.
- 268. Falling objects.
- 269. Property adjacent to highway.
- 270. Bridges.
- 271. Culverts.
- 272. Notice of defects or obstructions.
- 277. Precautions against injuries.
- 277.1. — In general.

48A. AUTOMOBILES

VI. INJURIES FROM DEFECTS OR OBSTRUCTIONS IN HIGHWAYS AND OTHER PUBLIC PLACES.(Cont'd)

- 278. — Barriers, guards, and fences.
- 279. — Notices, warning signals, or lights.
- 280. Rights of persons injured in general.
- 281. Status of injured person as traveler or trespasser.
- 282. Proximate cause.
- 283. Contributory negligence.
- 284. — In general.
- 285. — Knowledge of, and duty to observe, defect or danger.
- 286. — Equipment, lights, speed, and control.
- 287. — Persons under disability.
- 288. — Proximate cause of injury.
- 288.5. — Comparative negligence and apportionment of fault.
- 288.6. — Imputed contributory negligence.
- 289. Liabilities of abutting owners or occupiers.
- 289.5. Animals.
- 290. Liabilities of contractors, public utilities, and others.

(B) ACTIONS.

- 291. Nature and form of remedy.
- 292. Grounds and conditions precedent in general.
- 293. Notice of claim for injury.
- 294. Defenses.
- 295. Jurisdiction and venue.
- 296. Time to sue and limitations.
See also LIMITATION OF ACTIONS.
- 297. Parties.
- 298. Process.
- 299. Pleading.
- 300. — In general.
- 301. — Declaration, complaint, or petition.
 - (1). In general.
 - (2). Existence or location of way.
 - (3). Duty or liability of defendant in general.
 - (4). Notice of defects or obstructions.
 - (5). Notice of claim for injury.
 - (6). Negating contributory negligence or other fault.
- 302. — Plea or answer.
- 303. — Issues, proof, and variance.

VI. INJURIES FROM DEFECTS OR OBSTRUCTIONS IN HIGHWAYS AND OTHER PUBLIC PLACES.(Cont'd)

- 304. Presumptions and burden of proof.
 - (1). In general.
 - (2). Existence of defect or happening of injury.
 - (3). Contributory and comparative negligence; apportionment.
- 305. Admissibility of evidence.
 - (1). In general.
 - (2). Negligence in general.
 - (3). Existence or location of way.
 - (4). Condition of way.
 - (5). Notice of defects or obstructions.
 - (6). Other accidents.
 - (8). Notice of claim for injury.
 - (9). Proximate cause.
 - (10). Contributory and comparative negligence; apportionment.
- 306. Weight and sufficiency of evidence.
 - (1). In general.
 - (2). Negligence in general.
 - (3). Existence or location of way.
 - (4). Condition of way.
 - (5). Notice of defects or obstructions.
 - (6). Notice of claim for injury.
 - (7). Proximate cause.
 - (8). Contributory negligence.
 - (9). Comparative negligence and apportionment of fault.
- 307. Conduct of trial in general.
- 308. Questions for jury.
 - (1). In general.
 - (2). Negligence in general.
 - (3). Existence or location of way.
 - (4). Condition of way and nature of defects or obstructions.
 - (5). Excavations.
 - (6). Precautions against injury.
 - (7). Notice of defects or obstructions.
 - (8). Negligence of abutting owner.
 - (9). Negligence of contractors, public utilities, and others.
 - (10). Proximate cause of injury.
 - (11). Contributory and comparative negligence; apportionment.
 - (12). Notice of claim for injury.
- 309. Instructions to jury.
 - (1). In general.

48A. AUTOMOBILES

VI. INJURIES FROM DEFECTS OR OBSTRUCTIONS IN HIGHWAYS AND OTHER PUBLIC PLACES.(Cont'd)

- (2). Negligence in general.
- (3). Notice of defects or obstructions.
- (4). Contributory and comparative negligence; apportionment.
- 310. Verdict and findings.
- 311. Judgment.
- 312. Appeal and error.
- 313. Damages.
Compensatory damages for personal injuries, see DAMAGES.
- 314. Costs.

VII. OFFENSES.

(A) IN GENERAL.

- 315. Power to define and punish crimes.
- 316. Creation and definition of offenses; constitutional and statutory provisions.
- 317. Application of common law.
- 318. Concurrent and conflicting regulations by state and municipality.
- 319. Knowledge, intent, and malice.
- 320. Defenses.
- 321. Capacity to commit crime.
- 322. Persons acting under authority or direction of others.
- 323. Parties to offenses.
- 324. Offenses in general.
- 325. Sale or transfer.
- 326. License and registration.
- 327. Equipment in general.
- 328. Lights.
- 329. Signals and signaling devices.
- 330. Reckless operation.
- 331. Excessive speed, lack of control, and racing.
- 332. Driving while intoxicated.
- 333. Stopping, standing, and parking.
- 334. Leaving vehicle unattended.
- 335. Violation of traffic regulations.
- 336. Neglect of duty after accident.
- 337. Excessive loads, and injuries to highways and bridges.
- 338. Frightening or injuring animals.
- 339. Taking and using vehicle or parts without consent of owner.
- 340. Identification marks altered or removed.

VII. OFFENSES.(Cont'd)

- 341. Movement of stolen cars in interstate commerce.
- 342. Homicide.
- 342.1. — In general.
- 343. — Murder.
- 344. — Manslaughter.
- 345. — Assault with intent to kill.
- 346. — Excuse or justification.
- 347. Assault and battery.
- 348. Malicious mischief.
- (B) PROSECUTION.**
- 349. Arrest, stop, or inquiry; bail or deposit.
For summons, ticket, or complaint, see also §351, below.
 - (1). In general.
 - (2). Grounds.
 - (2.1). — In general.
 - (4). — License or registration of-fenses, in general.
 - (5). — Equipment or inspection of-fenses, in general.
 - (5.1). — License plates and registration stickers, in general.
 - (5.2). — License plate lights.
 - (5.3). — Seat belts or restraints; protection of children.
 - (6). — Intoxication.
 - (7). — Investigation of unrelated offenses leading to discovery of traffic offense.
 - (8). — Traffic offense stop leading to discovery of unrelated offense.
 - (9). Roadblock, checkpoint, or routine or random stop.
 - (10). What is arrest or seizure; stop distinguished.
 - (11). Who may arrest, stop, or inquire.
 - (12). Place and time.
 - (13). Authority under warrant.
 - (14). Conduct of arrest, stop, or inquiry.
 - (14.1). — In general.
 - (15). — Custodial arrest or less punitive measures.
 - (16). — Ordering occupants out of vehicle.

48A. AUTOMOBILES

VII. OFFENSES.(Cont'd)

- (17). — Detention, and length and character thereof.
- (18). — Inquiry; license, registration, or warrant checks.
- (19). — Disposition of person; bail or deposit.

349.5. Search or seizure consequent to arrest, stop or inquiry.

Excludes sobriety tests, see AUTOMOBILES 411-426, below.

- (1). In general.
- (3). Stop or arrest as pretext or ruse, in general.
- (4). Probable or reasonable cause, in general.
- (5). Object, product, scope, and conduct of search, seizure, or inspection.
- (5.1). — In general.
- (6). — Evidence of unrelated offenses, in general.
- (7). — Drugs and narcotics.
- (8). — Plain view; observation.
- (9). — Persons, search of.
- (10). — Weapons; protective searches; pat-down.
- (11). — Compartments and closed containers.
- (12). — Time and place; impoundment, inventory, or booking.

350. Jurisdiction and venue.

351. Charging instrument; summons or ticket.

351.1. — In general.

352. — Issues, proof, and variance.

353. Presumptions and burden of proof.

- (1). In general.
- (2). License and registration.
- (3). Equipment.
- (4). Reckless operation.
- (5). Excessive speed, lack of control, and racing.
- (6). Driving while intoxicated.
- (7). Stopping, standing, and parking.
- (8). Neglect of duty after accident.
- (9). Frightening or injuring animals.
- (10). Taking and using without consent of owner.

VII. OFFENSES.(Cont'd)

- (11). Identification marks altered or removed.
- (12). Movement of stolen cars in interstate commerce.
- (13). Homicide.
- (14). Assault and battery.
- (15). Malicious mischief.

354. Admissibility of evidence.

- (1). In general.
- (2). License and registration.
- (3). Equipment.
- (4). Reckless operation.
- (5). Excessive speed, lack of control, and racing.
- (6). Driving while intoxicated.

Excludes evidence of sobriety tests, see IX.

- (7). Stopping, standing, and parking.
- (8). Neglect of duty after accident.
- (9). Frightening or injuring animals.
- (10). Taking and using without consent of owner.
- (11). Identification marks altered or removed.
- (12). Movement of stolen cars in interstate commerce.
- (13). Homicide.
- (14). Assault and battery.
- (15). Malicious mischief.

355. Weight and sufficiency of evidence.

- (1). In general.
- (2). License and registration.
- (3). Equipment.
- (4). Reckless operation.
- (5). Excessive speed, lack of control, and racing.
- (6). Driving while intoxicated.
- (7). Stopping, standing, and parking.
- (8). Neglect of duty after accident.
- (9). Frightening or injuring animals.
- (10). Taking and using without consent of owner.
- (11). Identification marks altered or removed.
- (12). Movement of stolen cars in interstate commerce.
- (13). Homicide.
- (14). Assault and battery.
- (15). Malicious mischief.

356. Questions for jury.

48A. AUTOMOBILES

VII. OFFENSES.(Cont'd)

- (1). In general.
 - (2). License and registration.
 - (3). Equipment.
 - (4). Reckless operation.
 - (5). Excessive speed, lack of control, and racing.
 - (6). Driving while intoxicated.
 - (7). Stopping, standing, and parking.
 - (8). Neglect of duty after accident.
 - (9). Frightening or injuring animals.
 - (10). Taking and using without consent of owner.
 - (11). Identification marks altered or removed.
 - (12). Movement of stolen cars in interstate commerce.
 - (13). Homicide.
 - (14). Assault and battery.
 - (15). Malicious mischief.
357. Instructions.
- (1). In general.
 - (2). License and registration.
 - (3). Equipment.
 - (4). Reckless operation.
 - (5). Excessive speed, lack of control, and racing.
 - (6). Driving while intoxicated.
 - (7). Stopping, standing, and parking.
 - (8). Neglect of duty after accident.
 - (9). Frightening or injuring animals.
 - (10). Taking and using without consent of owner.
 - (11). Identification marks altered or removed.
 - (12). Movement of stolen cars in interstate commerce.
 - (13). Homicide.
 - (14). Assault and battery.
 - (15). Malicious mischief.
358. Verdict and findings.

(C) SENTENCE AND PUNISHMENT.

- 359.1. In general.
- 359.2. Homicide in general.
- 359.3. Driving while intoxicated.
- 359.4. — In general.
- 359.5. — Cases involving death.
- 359.6. — Repeat offenders.

(D) REVIEW.

Includes only review of administrative, civil, or quasi-criminal traffic violation proceedings; for review of criminal proceedings, see CRIMINAL LAW XXIV.

360. In general.

(E) COSTS.

361. In general.

VIII. GARAGE KEEPERS, REPAIRMEN, AUTO LIVERYMEN, AND FILLING STATIONS.

362. Power to regulate.
363. Statutory and local regulations.
364. Who are garage keepers.
365. Licenses and taxes.
366. Buildings.
367. Garage as nuisance.
368. Repairs and other services and supplies.
369. Storage of vehicles; parking facilities.
See also BAILMENT.
370. — In general.
371. — Compensation.
372. — Injury to or loss of vehicle or contents.
- (1). In general; nature of relation.
 - (2). Limitation of liability.
 - (3). Actions.
 - (3.1). — In general.
 - (4). — Evidence and fact questions.
373. Lien.
374. — In general.
375. — Consent or agreement of owner.
376. — Contract with conditional buyer.
377. — Contract with infant.
378. — Possession by lienor.
379. — Services or supplies for which allowed.
380. — Assignment or transfer.
381. — Waiver or loss.
382. — Reinstatement.
383. — Priorities.
384. — Proceedings to perfect.
385. — Enforcement.
386. Renting out of vehicle by auto liverymen.
387. — In general.
388. — Injuries to person of hirer.
389. — Liability of hirer in general.
390. — Injuries to vehicle.
391. — Injuries to third persons.

**VIII. GARAGE KEEPERS, REPAIRMEN,
AUTO LIVERYMEN, AND FILLING
STATIONS.(Cont'd).**

- 392. Penalties for violation of regulations.
- 393. Offenses by garage keepers.
- 394. Offenses by persons dealing with garage keepers.
- 395. Filling stations.

IX. EVIDENCE OF SOBRIETY TESTS.

Excludes admissibility in civil actions: See EVIDENCE ¶150.

- 411. In general.
- 412. Constitutional and statutory provisions.
- 413. Refusal of test, admissibility.
- 414. Right to take sample or conduct test; initiating procedure.
- 415. Motorists' right to test or to additional or alternative test.
- 416. Time for test.
- 417. Grounds for test.
- 417.1. — In general.
- 418. — Consent, express or implied.
- 419. — Grounds or cause; necessity for arrest.
- 420. — Motorist unconscious or incompetent.
- 421. Advice or warnings; presence of counsel or witness.
- 422. Conduct and proof of test; foundation or predicate.
- 422.1. — In general.
- 423. — Competency of officer or technician.
- 424. — Reliability of particular testing devices.
- 425. — Identification and integrity of sample.
- 426. Procedure; evidence and fact questions.
Excludes issues appropriate for ¶422-424, above.

48B. AVIATION

SUBJECTS INCLUDED

Activity of flying or operation of aircraft
Sovereignty, in and ownership of air space

48B. AVIATION

Regulation, control and licensing of aviation, aircraft and airmen

Airlines and other carriers, control, licensing and regulation

Injuries from operation of aircraft and actions for such injuries

Airports, facilities and services incidental to operation and maintenance of aircraft

**SUBJECTS EXCLUDED AND COVERED
BY OTHER TOPICS**

Compensatory damages for injuries, see DAMAGES

Crop spraying or dusting, and similar incidental activities, duties and liabilities, see AGRICULTURE

Employers' rights, duties and liabilities as to their employees, see LABOR AND EMPLOYMENT, WORKERS' COMPENSATION

General contractual rights, duties and liabilities, and consideration of aircraft as property, see CARRIERS, CHATTEL MORTGAGES, EXEMPTIONS, INSURANCE, SALES, SECURED TRANSACTIONS, TAXATION and other specific topics

Insurance policies, life and accident, aviation exclusion clauses, see INSURANCE

Particular offenses not involving aviation regulations, nor direct injuries from negligent or wrongful use of aircraft, see CUSTOMS DUTIES, INTOXICATING LIQUORS, LARCENY and other specific topics

Particular remedies, see CREDITORS' REMEDIES, REPLEVIN, and other specific topics

Public carriers, rights, duties and liabilities as to passengers and freight, see CARRIERS

Tort liability of manufacturers, distributors and others for defects or dangers in aircraft or parts thereof, see PRODUCTS LIABILITY

**I. CONTROL AND REGULATION IN
GENERAL, ¶1-50.**

(A) IN GENERAL, ¶1-30.

(B) ADMINISTRATIVE REGULATION,
¶31-50.

**II. AIRLINES AND OTHER CARRIERS,
¶51-120.**

(A) CONTROL AND REGULATION IN
GENERAL, ¶51-70.

48B. AVIATION

II. AIRLINES AND OTHER CARRIERS

—Cont'd

(B) CERTIFICATE OR LICENSE,

☞71-100.

(C) REGULATION OF OPERATION AND MANAGEMENT, ☞101-120.

III. AVIATORS AND OTHER PERSONNEL, ☞121-140.

IV. INJURIES FROM OPERATION OF AIRCRAFT, ☞141-210.

(A) NATURE AND GROUNDS OF LIABILITY, ☞141-170.

(B) ACTIONS, ☞171-210.

V. AIRPORTS AND SERVICES, ☞211-252.

I. CONTROL AND REGULATION IN GENERAL.

(A) IN GENERAL.

1. Status in general.
2. What are aircraft.
3. Sovereignty in and ownership of airspace.
4. Flying over another's land.
- 4.1. — In general.
5. — Trespass or nuisance, flying as.
6. — Remedies; injunction.
7. Power to regulate.
8. Statutes and constitutional provisions.
9. Local regulations.
10. Aircraft certificates and registration.
11. Flying regulations.
12. Airspace reservations.
14. Transfer and incumbrance of aircraft.
See also SALES.
15. Penalties.
16. Offenses.
17. Criminal prosecutions.

(B) ADMINISTRATIVE REGULATION.

31. Boards and officers in general.
32. Statutes and constitutional provisions.
33. Rules and regulations.
34. Proceedings and orders.
35. Judicial review and enforcement.

II. AIRLINES AND OTHER CARRIERS.

(A) CONTROL AND REGULATION IN GENERAL.

51. Power to control and regulate.
52. Airline companies.

(B) CERTIFICATE OR LICENSE.

71. Power to license.

II. AIRLINES AND OTHER CARRIERS.(Cont'd)

72. Who are carriers.
73. Eligibility for and subjects of certificates in general.
74. Classification and exemptions; forwarders.
75. Application and proceedings thereon.
- 75.1. — In general.
76. — Evidence.
77. — Judicial review.
78. Construction and effect.
79. Amendment and modification; transfer.
80. Suspension or revocation.
81. Violation and enforcement.
- 81.1. — In general.
82. — Parties and evidence.

(C) REGULATION OF OPERATION AND MANAGEMENT.

101. Regulation in general.
102. Rates and tariffs in general.
103. Mail rates.
104. Consolidation, merger, and acquisition of control.
105. Prohibited interests.
106. Methods of competition.
107. Pooling and other agreements.

III. AVIATORS AND OTHER PERSONNEL.

121. Regulation in general.
122. Certificate or license in general.
123. Amendment, suspension and revocation of certificates.
- 123.1. — In general.
124. — Review of proceedings.

IV. INJURIES FROM OPERATION OF AIRCRAFT.

(A) NATURE AND GROUNDS OF LIABILITY.

141. Care required and liability in general.
142. Statutes and constitutional provisions.
143. Taxiing, taking-off and landing.
144. Injuries to persons in general.
145. Injuries to property in general.
146. Collision.
147. Parked aircraft.
148. Exhibitions and races.
149. Occupants, injuries to.
150. Frightening animals.
151. Proximate cause.

48B. AVIATION

**IV. INJURIES FROM OPERATION
OF AIRCRAFT.(Cont'd)**

- 152. Contributory negligence and assumption of risk.
- 153. Persons liable.

(B) ACTIONS.

- 171. In general.
- 172. Statutes and constitutional provisions.
- 173. What law governs.
- 174. Jurisdiction and venue.
- 175. Pleading.
- 176. Presumptions and burden of proof.
- 176.1. — In general.
- 177. — Happening of accident or injury.
- 178. Admissibility of evidence.
- 179. Weight and sufficiency of evidence.
- 179.1. — In general.
- 180. — Negligence in general.
- 181. — Occupants, injuries to.
- 182. — Identity and status of operator.
- 183. — Proximate cause.
- 184. — Contributory negligence and assumption of risk.
- 185. Questions for jury.
- 185.1. — In general.
- 186. — Negligence in general.
- 187. — Occupants, injuries to.
- 188. — Identity and status of operator.
- 189. — Proximate cause.
- 190. — Contributory negligence and assumption of risk.
- 191. Instructions.

V. AIRPORTS AND SERVICES.

- 211. Right to establish and maintain airports in general.
- 212. Statutes and constitutional provisions.
- 213. Licenses and permits.
- 213.1. — In general.
- 214. — Proceedings to procure.
- 215. — Review of proceedings.
- 216. Airport as nuisance.
- 217. Public establishment and operation.
- 218. Remedies for wrongful maintenance and operation.
- 218.1. — In general.

V. AIRPORTS AND SERVICES.(Cont'd)

- 219. — Abatement and injunction.
- 220. — Pleading.
- 221. — Evidence.
- 222. Airport authorities.
- 223. Boards, officers and employees.
- 224. Regulation and use in general.
- 225. Lease of facilities.
- 225.1. — In general.
- 226. — Power to lease.
- 227. — Requisites and validity.
- 228. Charges.
- 229. Ground transportation.
- 230. Abandonment of airports.
- 231. Obstructions and hazards.
- 232. Injuries from operation and maintenance of airports in general.
- 232.1. — In general.
- 232.5. — Air traffic control.
- 233. — Contributory and comparative negligence; assumption of risk.
- 234. Actions for injuries.
- 234.1. — In general.
- 235. — Evidence.
- 236. — Questions for jury.
- 237. Aids to navigation.
- 238. Repairs and other services and supplies in general.
- 239. Testing.
- 240. Hangars, parking and storage.
- 240.1. — In general.
- 241. — Injuries to or loss of aircraft.
- 242. — Actions in general.
- 243. — Evidence.
- 244. Lien.
- 245. Rental of aircraft.
- 245.1. — In general.
- 246. — Injuries to hirer or third persons.
- 247. — Injuries to aircraft.
- 248. Flight schools; training.
- 248.1. — In general.
- 249. — Injuries to students or others.
- 250. — Actions.
- 251. Clubs.
- 252. Penalties and offenses.

49. BAIL

49. BAIL

SUBJECTS INCLUDED

Release of persons under arrest, in civil actions or on charges of crime, from such custody, on giving security to appear and answer

Right to be admitted to bail

Authority to take bail

Proceedings in giving and taking bail, and requisites and sufficiency of recognizances, bonds or undertakings or deposit of money in lieu of bail

Rights and liabilities of bail and their discharge or exoneration

Breach and forfeiture of recognizances, bonds, etc., and proceedings to enforce liabilities of bail

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Juvenile delinquency cases, see INFANTS

Officers' liabilities as bail, see SHERIFFS AND CONSTABLES

Recognizances and undertakings given to secure performance of acts not relating to release under arrest, see RECOGNIZANCES, UNDERTAKINGS and other specific topics

Release pending habeas corpus proceedings, see HABEAS CORPUS

Review of decisions relating to bail, see APPEAL AND ERROR, CRIMINAL LAW, CERTIORARI, HABEAS CORPUS

I. IN CIVIL ACTIONS, ¶1-38.

II. IN CRIMINAL PROSECUTIONS, ¶39-97.

I. IN CIVIL ACTIONS.

1. Nature and scope of remedy.
2. Right to release without bail.
3. Right to release on bail.
4. Necessity of special bail and entry thereof.
5. Amount of bail.
6. — In general.
7. — Excessive bail.
8. — Increase or reduction.
9. Bond, undertaking, or recognizance.
- 9.1. — In general.
10. — Necessity and authority to take.

I. IN CIVIL ACTIONS.(Cont'd)

11. — Requisites and validity in general.
12. — Recitals.
13. — Conditions and obligations.
14. — Sureties.
15. — Approval and filing.
16. — Construction and operation.
17. Deposit in lieu of bail.
18. Discharge of sureties.
19. Breach or fulfillment of condition of bond, undertaking, or recognizance.
20. Extent of liability.
21. Proceedings for fixing liability or forfeiture.
22. Relief from liability or forfeiture.
23. — In general.
24. — Surrender of principal.
25. Action or scire facias on bond, undertaking, or recognizance.
- 25.1. — In general.
26. — Nature and form of remedy.
27. — Right of action.
28. — Defenses.
29. — Jurisdiction and venue.
30. — Time to sue, and limitations.
31. — Parties.
32. — Process and appearance.
33. — Pleading.
34. — Evidence.
35. — Damages.
36. — Trial.
37. — Judgment and enforcement thereof.
38. — Appeal and error.

II. IN CRIMINAL PROSECUTIONS.

39. Nature and scope of remedy.
40. Right to release without bail.
41. Right to release on bail.
42. — In general.
- 42.5. — Imposition of conditions in general.
43. — Bailable offenses.
44. — Pending appeal or other proceeding for review.
 - (1). In general; conditions.
 - (2). Nature of offense or proceedings.
 - (3). Grounds for grant or denial.
 - (3.1). — In general.

49. BAIL

II. IN CRIMINAL PROSECUTIONS.(Cont'd)

- (4). — Substantiality of grounds for review; delay.
- 45. — After reversal on appeal or error.
- 46. Jurisdiction and authority to admit to bail.
- 46.1. — In general.
- 47. — Courts and judicial officers.
- 48. — Clerks, sheriffs, and other ministerial officers.
- 49. Proceedings to admit to bail.
 - (1). In general.
 - (2). Matters considered.
 - (3). Evidence.
 - (3.1). — In general.
 - (4). — Presumptions and burden of proof.
 - (5). Hearing and determination.
- 50. Amount of bail.
- 51. — In general.
- 52. — Excessive bail.
- 53. — Increase or reduction.
- 54. Bond, undertaking, or recognizance.
- 54.1. — In general.
- 55. — Requisites and validity in general.
- 56. — Defects in antecedent proceedings.
- 57. — Recitals in general.
- 58. — Description of offense.
- 59. — Conditions and obligations.
- 60. — Sureties.
- 61. — Approval and filing.
- 62. — Construction and operation.
- 63. Bond, undertaking, or recognizance on appeal or other proceeding for review.
- 63.1. — In general.
- 64. — Requisites and validity in general.
- 65. — Recitals in general.
- 66. — Description of offense.
- 67. — Description of court.
- 68. — Conditions and obligations.
- 69. — Sureties.
- 70. — Approval and filing.
- 71. — Construction and operation.
- 72. — Amendments, and new or additional bonds.
- 73. Deposit in lieu of bail.
- 73.1. Revocation or modification of bail.
 - (1). In general.
 - (2). Hearing.

II. IN CRIMINAL PROSECUTIONS.(Cont'd)

- 74. Discharge of sureties.
 - (1). In general.
 - (2). Continuance or postponement of case.
- 75. Breach or fulfillment of condition of bond, undertaking, or recognizance.
- 75.1. — In general.
- 75.2. — Appearance of principal.
 - (1). In general.
 - (2). After conviction.
 - (3). Excuses for non-appearance.
- 75.3. — Liability and penalties for breach in general.
- 76. Extent of liability.
- 77. Proceedings for fixing liability or forfeiture.
 - (1). In general.
 - (2). Judgment or record of forfeiture.
- 78. Relief from liability or forfeiture.
- 79. — In general.
 - (1). In general.
 - (2). Application and proceedings for relief.
- 80. — Surrender of principal.
- 81. Action or scire facias on bond, undertaking, or recognizance.
- 81.1. — In general.
- 82. — Nature and form of remedy.
- 83. — Right of action.
- 84. — Defenses.
- 85. — Jurisdiction and venue.
- 86. — Time to sue, and limitations.
- 87. — Parties.
- 88. — Process and appearance.
- 89. — Pleading.
 - (1). In general.
 - (2). Plea or answer, cross-complaint, and reply.
 - (3). Amendment.
- 90. — Evidence.
- 91. — Damages.
- 92. — Trial.
- 93. — Judgment and enforcement thereof.
- 94. — Appeal and error.
- 95. — Costs.
- 96. Disposition of proceeds.
- 97. Bail jumping as offense.
 - (1). In general.

49. BAIL

II. IN CRIMINAL PROSECUTIONS. (Cont'd)

- (2). Prosecutions.
- (2.1). — In general.
- (3). — Evidence.
- (4). — Trial.
- (5). — Sentence and punishment.

50. BAILMENT

SUBJECTS INCLUDED

Contracts for transfer of possession of personal property without transfer of ownership in general

Rights, duties and liabilities of the parties, and remedies relating thereto

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Conditional sales, see SALES

Embezzlement or larceny by bailees, see EMBEZZLEMENT, LARCENY

Particular species of bailment, and bailments incident to particular occupations, see CARRIERS, DEPOSITS AND ESCROWS, FACTORS, INNKEEPERS, PLEDGES, SECURED TRANSACTIONS, WAREHOUSEMEN, and other specific topics

Automobiles, repair, storage, and parking, see AUTOMOBILES

- 1. Nature and elements in general.
Bailment distinguished from sale, see SALES ⇨ 517.
- 2. Particular forms of bailment.
- 3. Validity in general.
- 4. Subject-matter.
- 5. Delivery and acceptance.
- 6. Title and rights to property.
- 7. — In general.
- 8. — Estoppel of bailee to deny title of bailor.
- 9. Condition of and defects in property, and negligence of bailor.
- 10. Care and use of property, and negligence of bailee.
- 11. — In general.

- 12. — Bailments for sole benefit of bailor.
- 13. — Bailments for sole benefit of bailee.
- 14. — Bailments for mutual benefit.
 - (1). In general.
 - (2). Care of goods delivered for manufacture.
 - (3). Care of property delivered for exhibition.
 - (4). Care of articles left by customers in stores or bathing establishments.
- 15. Performance of services by bailee.
- 16. Conversion by bailee.
- 17. Wrongful delivery by bailee.
- 18. Compensation and lien of bailee.
 - (.5). In general.
 - (1). Right to compensation.
 - (2). Lien in general.
 - (3). Possession of property.
 - (4). Waiver or loss of lien.
 - (5). Enforcement of lien.
- 19. Reimbursement and indemnity of bailee.
- 20. Compensation of bailor for use of property.
- 21. Rights and liabilities as to third persons.
- 22. Termination, rescission, and option to purchase property.
- 23. Redelivery of property.
- 24. Actions between bailor and bailee.
 - 24.1. — In general.
 - 25. — Nature and form.
 - 26. — Conditions precedent.
 - 27. — Defenses.
 - 28. — Time to sue, and limitations.
See also LIMITATION OF ACTIONS.
 - 29. — Parties.
 - 30. — Pleading.
 - 31. — Evidence.
 - (.5). In general.
 - (1). Presumptions and burden of proof.
 - (2). Admissibility.
 - (3). Sufficiency.
 - 32. — Damages.
 - 33. — Trial.
 - 34. — Judgment and review.
 - 35. Actions by or against third persons.

51. BANKRUPTCY

51. BANKRUPTCY

SUBJECTS INCLUDED

Administration of estates of debtors under general bankruptcy laws for the purpose of distribution of assets among creditors and discharge of debtors from liability for their debts

What constitutes bankruptcy

Nature, grounds, limits and subjects of jurisdiction in bankruptcy cases, and procedure therein

Relief of debtors and reorganization of corporations and others under federal statutes enacted pursuant to the bankruptcy power

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Abstention, see FEDERAL COURTS

Insolvency under local insolvent laws, see CREDITORS' REMEDIES ¶1183

Matters governed by state or local law, such as:

Exemptions, see EXEMPTIONS, HOMESTEAD

Fraudulent conveyances, see also FRAUDULENT CONVEYANCES

Liens, see CHATTEL MORTGAGES, LIENS, MECHANICS' LIENS, MORTGAGES AND DEEDS OF TRUST, PLEDGES, SECURED TRANSACTIONS, etc.

Sales and transfers, see ASSIGNMENTS, SALES, VENDOR AND PURCHASER

- I. IN GENERAL, ¶2001-2120.
 - (A) IN GENERAL, ¶2001-2010.
 - (B) CONSTITUTIONAL AND STATUTORY PROVISIONS, ¶2011-2040.
 - (C) JURISDICTION, ¶2041-2091.
 - (D) PERSONAL JURISDICTION, ¶2092.1-2092.12.
 - (E) VENUE, ¶2093.1-2093.30.
 - 1. IN GENERAL; THE CASE, ¶2093.1-2093.15.
 - 2. ADVERSARY PROCEEDINGS AND CONTESTED MATTERS, ¶2093.16-2093.30.
 - (F) SUBSTANTIVE CONSOLIDATION OF CASES/ESTATES, ¶2094.1-2094.11.

- I. IN GENERAL—Cont'd
 - (G) REMOVAL OF PROCEEDINGS, ¶2095.1-2100.
 - (H) REFERENCE, ¶2101-2120.
- II. COURTS; PROCEEDINGS IN GENERAL, ¶2121-2200.
 - (A) IN GENERAL, ¶2121-2150.
 - (B) ACTIONS AND PROCEEDINGS IN GENERAL, ¶2151-2180.
 - (C) COSTS AND FEES, ¶2181-2200.
- III. THE CASE, ¶2201-2360.
 - (A) IN GENERAL, ¶2201-2220.
 - (B) DEBTORS, ¶2221-2250.
 - (C) VOLUNTARY CASES, ¶2251-2280.
 - (D) INVOLUNTARY CASES, ¶2281-2310.
 - (E) JOINT CASES, ¶2311-2320.
 - (F) SCHEDULES AND STATEMENT OF AFFAIRS, ¶2321-2330.
 - (G) CONVERSION, ¶2331-2340.
 - (H) CASES ANCILLARY TO FOREIGN PROCEEDINGS, ¶2341-2360.
- IV. EFFECT OF BANKRUPTCY RELIEF; INJUNCTION AND STAY, ¶2361-2490.
 - (A) IN GENERAL, ¶2361-2390.
 - (B) AUTOMATIC STAY, ¶2391-2420.
 - (C) RELIEF FROM STAY, ¶2421-2460.
 - (D) ENFORCEMENT OF INJUNCTION OR STAY, ¶2461-2480.
 - (E) PROTECTION OF UTILITY SERVICE, ¶2481-2490.
- V. THE ESTATE, ¶2491-2760.
 - (A) IN GENERAL, ¶2491-2510.
 - (B) TITLE AND RIGHTS OF TRUSTEE OR DEBTOR IN POSSESSION, IN GENERAL, ¶2511-2530.
 - (C) PROPERTY OF ESTATE IN GENERAL, ¶2531-2570.
 - 1. IN GENERAL, ¶2531-2534.
 - 2. PARTICULAR ITEMS AND INTERESTS, ¶2535-2570.
 - (D) LIENS AND TRANSFERS; AVOIDABILITY, ¶2571-2600.
 - (E) PREFERENCES, ¶2601-2640.
 - (F) FRAUDULENT TRANSFERS, ¶2641-2670.
 - (G) SET-OFF, ¶2671-2700.
 - (H) AVOIDANCE RIGHTS, ¶2701-2740.
 - 1. IN GENERAL, ¶2701-2720.
 - 2. PROCEEDINGS, ¶2721-2740.
 - (I) RECLAMATION, ¶2741-2760.
- VI. EXEMPTIONS, ¶2761-2820.
- VII. CLAIMS, ¶2821-3000.
 - (A) IN GENERAL, ¶2821-2850.
 - (B) SECURED CLAIMS, ¶2851-2870.

51. BANKRUPTCY

VII. CLAIMS—Cont'd

- (C) ADMINISTRATIVE CLAIMS, ☞2871–2890.
- (D) PROOF; FILING, ☞2891–2920.
- (E) DETERMINATION, ☞2921–2950.
- (F) PRIORITIES, ☞2951–3000.

VIII. TRUSTEES, ☞3001–3020.

IX. ADMINISTRATION, ☞3021–3250.

- (A) IN GENERAL, ☞3021–3060.
- (B) POSSESSION, USE, SALE, OR LEASE OF ASSETS, ☞3061–3100.
- (C) DEBTOR'S CONTRACTS AND LEASES, ☞3101–3130.
- (D) ABANDONMENT, ☞3131–3150.
- (E) COMPENSATION OF OFFICERS AND OTHERS, ☞3151–3250.
 - 1. IN GENERAL, ☞3151–3154.
 - 2. PROFESSIONAL PERSONS IN GENERAL, ☞3155–3169.
 - 3. ATTORNEYS, ☞3170–3250.

X. DISCHARGE, ☞3251–3440.

- (A) IN GENERAL, ☞3251–3270.
- (B) DISCHARGEABLE DEBTORS, ☞3271–3340.
 - 1. IN GENERAL, ☞3271–3310.
 - 2. DETERMINATION OF DISCHARGEABILITY, ☞3311–3340.
- (C) DEBTS AND LIABILITIES DISCHARGED, ☞3341–3394.
 - 1. IN GENERAL, ☞3341–3362.
 - 2. DEBTS ARISING FROM DIVORCE OR SEPARATION, ☞3363–3368.
 - 3. EDUCATIONAL LOANS, ☞3369–3371.
 - 4. FRAUD, ☞3372.1–3372.44.
 - 5. TORTS AND CRIMES, ☞3373–3394.
- (D) DETERMINATION OF DISCHARGEABILITY, ☞3395–3410.
- (E) EFFECT OF DISCHARGE, ☞3411–3440.

XI. LIQUIDATION, DISTRIBUTION, AND CLOSING, ☞3441–3460.

XII. BROKER AND CLEARING BANK LIQUIDATION, ☞3461–3480.

XIII. ADJUSTMENT OF DEBTS OF A MUNICIPALITY, ☞3481–3500.

XIV. REORGANIZATION, ☞3501–3660.

- (A) IN GENERAL, ☞3501–3530.
- (B) THE PLAN, ☞3531–3590.
- (C) CONVERSION OR DISMISSAL, ☞3591–3620.
- (D) ADMINISTRATION, ☞3621–3650.
- (E) RAILROAD REORGANIZATION, ☞3651–3660.

XV. ARRANGEMENTS, ☞3661.100–3661.999.

XV. ARRANGEMENTS—Cont'd

- (A) IN GENERAL, ☞3661.100–3661.110.
 - (B) REAL PROPERTY ARRANGEMENTS, ☞3661.111–3661.999.
- ### XVI. COMPOSITIONS, ☞3662.100–3670.
- ### XVII. ADJUSTMENT OF DEBTS OF FAMILY FARMER, ☞3671–3700.
- (A) IN GENERAL, ☞3671–3680.
 - (B) THE PLAN, ☞3681–3700.
- ### XVIII. INDIVIDUAL DEBT ADJUSTMENT, ☞3701–3740.
- ### XIX. REVIEW, ☞3741–3860.
- (A) IN GENERAL, ☞3741–3760.
 - (B) REVIEW OF BANKRUPTCY COURT, ☞3761–3810.
 - (C) REVIEW OF APPELLATE PANEL, ☞3811–3830.
 - (D) REVIEW OF DISTRICT COURT, ☞3831–3860.
- ### XX. OFFENSES, ☞3861–3863.

I. IN GENERAL.

(A) IN GENERAL.

- 2001. In general.
- 2002. Application of state or federal law in general.

(B) CONSTITUTIONAL AND STATUTORY PROVISIONS.

- 2011. In general.
- 2012. Bankruptcy power generally.
- 2013. Validity of bankruptcy laws.
 - 2013.1. — In general.
- 2014. — Uniformity requirement.
- 2015. — Impairment of contracts generally.
- 2016. — Jurisdictional provisions; courts and judges.
- 2017. — The estate; claims; liens.
- 2018. — Exemptions; discharge.
- 2019. — Reorganization.
- 2020. — Debt adjustment.
- 2021. Construction and operation.
 - 2021.1. — In general.
- 2022. — Purpose.
- 2023. Retrospective operation.
- 2024. Validity of retrospective operation.
 - 2024.1. — In general.
- 2025. — Lien avoidance provisions.
- 2026. Repeal.

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(C) JURISDICTION.

- 2041. Bankruptcy jurisdiction.
- 2041.1. — In general.
- 2041.5. — Limited, in personam, and in rem jurisdiction.
- 2041.10. — Cases or proceedings.
- 2041.15. — Transfer; transition period.
- 2041.20. — Emergency rule; local rules.
- 2042. District court jurisdiction in general.
- 2043. Core, non-core, or related proceedings in general; nexus.
 - (1). In general.
 - (2). Core or non-core proceedings.
 - (3). Related proceedings.
- 2044. Summary jurisdiction in general.
- 2045. Particular proceedings or issues.
- 2046. Jurisdiction over property.
- 2047. Administration of estate.
- 2048. Actions or proceedings by trustee or debtor.
 - 2048.1. — In general.
 - 2048.2. — Core or related proceedings.
 - 2048.3. — Injunction.
 - 2048.4. — Counterclaims.
 - 2048.5. — Stay enforcement.
- 2049. — State law claims.
- 2050. — Turnover proceedings.
- 2051. — Recovery of preferences or fraudulent conveyances.
- 2052. Claims or proceedings against estate or debtor; relief from stay.
- 2053. Issues between non-debtors.
- 2054. Domestic relations issues.
- 2055. Tax controversies.
- 2056. Pendent or ancillary jurisdiction.
- 2057. Effect of dismissal or closing of case.
- 2058. Consent to or waiver of objections to jurisdiction or venue.
 - 2058.1. — In general.
- 2059. — Assertion of claim against estate.
- 2060. Exclusive, conflicting, or concurrent jurisdiction.
 - 2060.1. — In general.
- 2061. — Bankruptcy courts and other federal courts.
- 2062. — Bankruptcy courts and state courts.
- 2063. Determination of jurisdictional questions.

(D) PERSONAL JURISDICTION.

- 2092.1. In general.
- 2092.2. Notice and service of pleadings.
- 2092.3. Particular determinations.
- 2092.4. Nonresidents, proceedings and actions against.
 - 2092.5. — In general.
 - 2092.6. — Particular cases.
 - 2092.7. — Foreign countries, corporations, business entities, and citizens.
 - (1). In general.
 - (2). Particular cases.
- 2092.8. Evidence.
 - 2092.9. — In general.
- 2092.10. — Presumptions and burden of proof.
- 2092.11. — Weight and sufficiency.
- 2092.12. Other procedural issues.

(E) VENUE.

1. IN GENERAL; THE CASE.

- 2093.1. In general.
- 2093.2. Factors and grounds considered in general.
- 2093.3. Particular cases.
- 2093.4. Evidence.
 - 2093.5. — In general.
 - 2093.6. — Presumptions and burden of proof.
 - 2093.7. — Weight and sufficiency.
- 2093.8. Other procedural issues.
- 2093.9. Change or transfer of venue.
- 2093.10. — In general.
- 2093.11. — Discretion.
- 2093.12. — Factors, grounds, and objections in general.
- 2093.13. — Particular cases.
 - (1). In general.
 - (2). Chapter 11 cases.
- 2093.14. — Evidence.
 - (1). In general.
 - (2). Presumptions and burden of proof.
 - (3). Weight and sufficiency.
- 2093.15. — Other procedural issues.

2. ADVERSARY PROCEEDINGS AND CONTESTED MATTERS.

- 2093.16. In general.

51. BANKRUPTCY

I. IN GENERAL.(Cont'd)

- 2093.17. Factors and grounds considered.
- 2093.18. Particular determinations.
- 2093.19. Evidence.
- 2093.20. — In general.
- 2093.21. — Presumptions and burden of proof.
- 2093.22. — Weight and sufficiency.
- 2093.23. Other procedural issues.
- 2093.24. Change or transfer of venue.
- 2093.25. — In general.
- 2093.26. — Discretion.
- 2093.27. — Factors and grounds considered.
 - (1). In general.
 - (2). Plaintiff's choice of forum.
 - (3). Convenience, fairness, and interest of justice.
- 2093.28. — Particular determinations.
- 2093.29. — Evidence.
 - (1). In general.
 - (2). Presumptions and burden of proof.
 - (3). Weight and sufficiency.
- 2093.30. — Other procedural issues.

(F) SUBSTANTIVE CONSOLIDATION OF CASES/ESTATES.

- 2094.1. In general; effect of substantive consolidation.
- 2094.2. Discretion.
- 2094.3. Factors, grounds, and objections.
- 2094.4. Particular cases and contexts.
- 2094.5. — In general.
- 2094.6. — Chapter 11 cases.
- 2094.7. Evidence.
- 2094.8. — In general.
- 2094.9. — Presumptions and burden of proof.
- 2094.10. — Weight and sufficiency.
- 2094.11. Other procedural issues.

(G) REMOVAL OF PROCEEDINGS.

- 2095.1. In general.
- 2095.2. Removable proceedings.
- 2095.3. — In general.
- 2095.4. — Discretion.
- 2095.5. — Removal from state courts.
- 2095.6. — Removal from federal courts.

I. IN GENERAL.(Cont'd)

- 2095.7. Relation to bankruptcy case and related to jurisdiction in general.
- 2095.8. Proceedings for removal or remand.
- 2095.9. — In general.
- 2095.10. — Time.
- 2095.11. — Consent; standing to seek or object to removal or remand.
- 2095.12. — Sua sponte authority of court.
- 2095.13. — Evidence.
- 2095.14. — Determination.
 - (1). In general.
 - (2). Remand to state court.
 - (3). Remand to federal court.
 - (4). Dismissal.
- 2095.15. Proceedings following removal.
- 2095.16. — In general.
- 2095.17. — Effect in removed proceedings of pre-removal rulings and conduct.
- 2095.18. Review of remand orders.

(H) REFERENCE.

- 2101. In general.
- 2102. Issues referable; automatic reference.
- 2103. Withdrawal or transfer to district court.
- 2104. Submission to district court for judgment.
- 2105. District court review or decision.

II. COURTS; PROCEEDINGS IN GENERAL.

(A) IN GENERAL.

- 2121. In general.
- 2122. Creation, nature and status.
- 2123. Bankruptcy judges.
- 2124. Power and authority.
- 2124.1. — In general.
- 2125. — Equitable powers and principles.
- 2126. — Carrying out provisions of Code.
- 2127. Procedure.
- 2127.1. — In general.
- 2128. — Filing fees.
- 2129. — Rules.
- 2130. — Jury trial, authority and discretion to conduct.
- 2131. — Notice.
- 2132. — Extension of time.
- 2133. — Orders.
- 2134. Contempt.

Includes most cases, but excludes cases appropriate for §§2465, 2466, and 3046(2), below.

51. BANKRUPTCY

(B) ACTIONS AND PROCEEDINGS IN GENERAL.

- 2151. In general.
- 2152. Rights of action against trustee or debtor.
- 2152.1. — In general.
- 2153. — Leave to sue.
- 2154. Rights of action by or on behalf of trustee or debtor.
Excludes avoidance actions, see §2701 et seq., below, and turnover proceedings, see §3066, below.
- 2154.1. — In general; standing.
- 2155. — Leave to sue.
- 2156. Nature and form; adversary proceedings.
- 2157. Limitations and time to sue; computation.
Includes all cases except for limitations on avoidance rights, see §2722, below.
- 2158. Process; service.
- 2159. Parties.
- 2159.1. — In general.
- 2160. — Intervention.
Includes all cases excepting intervention by the Securities and Exchange Commission, see §2206, below, and intervention to cure a deficiency in petitioning creditors, see §2289, below.
- 2161. — Third party practice.
- 2162. Pleading; dismissal.
- 2163. Evidence; witnesses.
- 2164. Judgment or order.
- 2164.1. — In general.
- 2165. — Default.

(C) COSTS AND FEES.

Excludes compensation of officers and professional persons, see IX(E) below, allowances to secured parties authorized by agreement, see §2853 below, administrative claims, see §2877 below, and expenses of preserving security, see §2854, below.

- 2181. In general.
- 2182. Grounds and circumstances.
- 2182.1. — In general.
- 2183. — Prevailing party.
- 2184. — Dismissal.
- 2185. — Dischargeability determinations; consumer debt issues.
- 2187. — Frivolity or bad faith; sanctions.
- 2188. Items and amount.
- 2189. Costs on appeal.
- 2190. In forma pauperis proceedings.
- 2191. Taxation.

III. THE CASE.

(A) IN GENERAL.

- 2201. In general.
- 2202. Commencement.
- 2203. Types of cases.
- 2204. Parties.
- 2204.1. — In general.
- 2205. — Reorganization cases; right to be heard.
- 2206. — Securities and Exchange Commission.

(B) DEBTORS.

- 2221. In general.
- 2222. Who may be a debtor.
- 2222.1. — In general.
- 2223. — Reorganization cases.
- 2224. — Corporations.
- 2225. — Insurance corporations.
- 2226. — Financial institutions.
- 2227. — Partners and partnerships.
- 2228. — Estates and trusts.
- 2229. — Farmers.
- 2230. — Eleemosynary institutions.
- 2231. — Brokers.
- 2232. — Municipalities.
- 2233. — Individual debt adjustment cases.
 - (1). In general.
 - (2). Regular income.
 - (3). Amount of indebtedness.
- 2234. Insolvency; current payment of debts.
- 2235. Simultaneous or successive proceedings.
Excludes right to discharge in successive proceedings, see §3275, below.

- 2236. Evidence and fact questions.

(C) VOLUNTARY CASES.

- 2251. In general.
- 2252. Good faith; motive.
- 2252.1. — In general.
- 2253. — Abuse of bankruptcy process.
- 2254. — Consumer debt abuse.
- 2255. Who may institute case.
- 2255.1. — In general.
- 2256. — Representatives of corporations.
- 2257. Petition.
- 2258. Objections and determination thereof.
- 2259. Dismissal.

51. BANKRUPTCY

III. THE CASE.(Cont'd)

- 2259.1. — In general.
- 2260. — Voluntary dismissal in general.
- 2261. — Cause in general.
Excludes bad faith, etc., existing at time of petition.
- 2262. — Intention to refile.
- 2263. — Want of prosecution.
- 2264. — Proceedings; motion or sua sponte action.
 - (1). In general.
 - (2). Standing.
 - (3). Order; prejudice.

(D) INVOLUNTARY CASES.

- 2281. In general.
- 2282. Availability or exhaustion of other remedies.
- 2283. Petitioning creditors and their claims.
- 2283.1. — In general.
- 2284. — Bad faith; collusion.
- 2285. Number of creditors and amount of claims.
- 2285.1. — In general.
- 2286. — Undisputed or contingent claims.
- 2287. — Secured creditors.
- 2288. — Effect of payment by debtor; preferred creditors.
- 2289. — Intervention curing deficiency.
- 2290. Petition.
- 2290.1. — In general.
- 2291. — Verification.
- 2292. — Amendment.
- 2293. Bond.
- 2294. Objections; answer.
- 2295. Determination of issues; dismissal.
Excludes grounds for dismissal existing at time of petition, and grounds peculiar to reorganization or debt adjustment cases, see §3591 et seq., 3716, 3717, below.
- 2295.1. — In general.
- 2296. — Evidence and fact questions.
- 2297. Order for relief.

(E) JOINT CASES.

- 2311. In general.

(F) SCHEDULES AND STATEMENT OF AFFAIRS.

- 2321. In general.
- 2322. Requisites in general.
- 2322.5. Income and expenditures.
- 2323. Property.

III. THE CASE.(Cont'd)

- 2324. Creditors.
- 2325. Amendment.

(G) CONVERSION.

- 2331. Conversion to reorganization.
- 2332. Conversion to debt adjustment.

(H) CASES ANCILLARY TO FOREIGN PROCEEDINGS.

- 2341. In general.

IV. EFFECT OF BANKRUPTCY RELIEF; INJUNCTION AND STAY.

(A) IN GENERAL.

- 2361. In general.
- 2362. Stay of redemption period.
- 2363. Protection against discrimination or collection efforts in general; “fresh start.”
- 2363.1. — In general.
- 2364. — Discharge as injunction.
- 2365. — Set-off.
- 2366. — Lien enforcement.
- 2367. — Injunction or stay of other proceedings.
- 2368. — Judicial proceedings in general.
- 2369. — State court proceedings.
- 2370. — Criminal prosecutions.
- 2371. — Administrative proceedings and governmental actions.
 - (1). In general.
 - (2). Tax proceedings.
 - (3). Licenses and permits.
- 2372. — Student loans and transcripts, proceedings involving.
- 2373. — Contracts, grant or renewal.
- 2374. — Preliminary injunctions and restraining orders.

(B) AUTOMATIC STAY.

- 2391. In general.
- 2392. Property and claims subject to stay.
- 2393. Notice to creditors; commencement.
- 2394. Proceedings, acts, or persons affected.
- 2394.1. — In general.
- 2395. — Judicial proceedings in general.
- 2396. — Co-debtors and third persons.
- 2397. — Mortgages or liens.

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IV. EFFECT OF BANKRUPTCY RELIEF; INJUNCTION AND STAY.(Cont'd)

- (1). In general.
- (1.5). Acts excepted from stay.
- (2). Foreclosure proceedings.
- (3). Redemption period.
- 2398. — Landlord and tenant, proceedings.
- 2399. — Set-offs and counterclaims; cross claims.
- 2400. — Repossession.
- 2401. — Domestic relations claims and proceedings.
- 2402. — Administrative proceedings and governmental action.
 - (1). In general.
 - (2). Labor and employment matters.
 - (2.1). — In general.
 - (2.5). — Unfair labor practice proceedings.
 - (2.10). — Discrimination proceedings.
 - (2.15). — Workers' compensation proceedings.
 - (2.20). — Pension or benefit proceedings.
 - (2.25). — Fair labor standards or wage claim proceedings.
 - (2.30). — Unemployment compensation proceedings.
 - (3). Environmental matters.
 - (4). Taxation and licenses.
 - (5). Criminal prosecutions.
 - (6). Forfeiture.
 - (7). Contempt.
- 2403. — Student loans and transcripts.
- 2404. Duration and termination.

(C) RELIEF FROM STAY.

- 2421. Vacation, continuance, modification, or dissolution in general.
- 2422. Cause; grounds and objections.
- 2422.5. — In general.
 - (1). In general.
 - (2). Balancing hardships.
 - (3). Secured and unsecured creditors; secured and contingent claims.
 - (4). Particular cases.
 - (4.1). — In general.
 - (5). — Mortgages; foreclosure.

IV. EFFECT OF BANKRUPTCY RELIEF; INJUNCTION AND STAY.(Cont'd)

- (6). — Landlord and tenant; leases.
- (7). — Domestic relations.
- (8). — Employment.
- (9). — Sales; franchises.
- (10). — Environmental matters.
- 2423. — Debtor's default.
- 2424. — Debtor's want of interest or equity.
- 2425. — Individual debt adjustment cases.
- 2426. — Fraud, bad faith, or misconduct.
- 2427. — Unlikelihood of reorganization; lack of plan.
- 2428. — Claims of nondischargeability.
- 2429. — Necessity of asset for reorganization or rehabilitation.
 - (1). In general.
 - (2). Particular assets.
 - (3). Real property.
- 2430. Adequate protection.
 - 2430.1. — In general.
 - 2430.2. — Effect of presence or absence.
 - 2430.5. — Particular creditors or claimants.
 - (1). In general.
 - (2). Mortgagees.
 - (3). Lessors.
 - 2430.10. — Claims and interests protected.
 - (1). In general.
 - (2). Unsecured or undersecured claims.
 - (3). Time element; rights as of filing date.
 - (4). Damages; lost opportunity; interest.
- 2431. — What constitutes, in general.
- 2432. — Equity cushion.
- 2433. — Periodic payments.
- 2434. — Indubitable equivalent; replacement lien.
- 2435. Proceedings.
 - 2435.1. — In general.
- 2436. — Set-off and counterclaim; affirmative defenses.
- 2437. — Time; notice.
- 2438. — Parties; standing.
- 2439. — Evidence.
 - (1). In general.

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IV. EFFECT OF BANKRUPTCY RELIEF; INJUNCTION AND STAY.(Cont'd)

- (2). Presumptions and burden of proof.
- (3). Creditor's or movant's burden.
- (3.1). — In general.
- (4). — Lack of equity.
- (5). Debtor's or trustee's burden.
- (5.1). — In general.
- (6). — Adequate protection.
- (7). — Necessity for reorganization or rehabilitation.
- 2440. — Hearing.
- 2441. — Discretion.
- 2442. — Determination and relief; conditions.
- 2443. Reinstatement; modification of order of relief.

(D) ENFORCEMENT OF INJUNCTION OR STAY.

- 2461. In general.
- 2462. Validity of acts in violation of injunction or stay.
- 2463. Injunction against violation of stay.
- 2464. Sanctions, in general.
- 2465. Contempt.
- 2465.1. — In general.
- 2465.2. — Knowledge, intent, and good faith.
- 2465.3. — Proceedings.
- 2466. — Violation of discharge order.
- 2467. Damages and attorney fees.
- 2468. Exemplary or punitive damages; fines.

(E) PROTECTION OF UTILITY SERVICE.

- 2481. In general; adequate assurance or protection.
- 2482. Proceedings; injunction.

V. THE ESTATE.

(A) IN GENERAL.

- 2491. In general.
- 2492. Creation of estate; time.

(B) TITLE AND RIGHTS OF TRUSTEE OR DEBTOR IN POSSESSION, IN GENERAL.

- 2511. In general.
- 2512. "Strong arm" rights generally.
- 2513. Effect of state law.
- 2514. Rights as lien holder.

V. THE ESTATE.(Cont'd)

- 2515. Rights as bona fide purchaser of realty.
- 2516. Rights as unsecured creditor.

(C) PROPERTY OF ESTATE IN GENERAL.

1. IN GENERAL.

- 2531. In general.
- 2532. Interest of debtor in general.
- 2533. Legal or equitable interests in general.
- 2534. Effect of state law in general.

2. PARTICULAR ITEMS AND INTERESTS.

- 2535. In general.
 - (1). In general.
 - (2). Tangible personalty in general.
 - (3). Deposits and securities; bonds.
 - (4). Realty in general.
 - (5). Property subject of sale or transfer.
 - (6). Social security benefits.
- 2536. Letters of credit.
- 2537. Exempt or fresh start property.
- 2538. Mortgages.
- 2539. Future interests.
- 2540. Preferences and fraudulent conveyances; avoided transfers.
- 2541. Leases.
- 2542. Property acquired by fraud.
- 2543. Property held by debtor as trustee, agent, or bailee.
- 2544. Licenses and permits.
- 2545. Property pledged or encumbered; redemption rights.
- 2546. Interests in joint, entireties, or community property.
- 2547. Property held in trust or custody for debtor; deposits.
- 2548. Accrued rights under employment contracts; pension funds.
- 2549. Insurance policies and liabilities thereon.
- 2550. Tax refunds, credits, and deductions.
- 2551. Property in custody of law.
- 2552. Rights of action; contract rights generally.
- 2553. — In general.
- 2554. — Rights under contracts.
- 2555. — Consumer credit claims.
- 2556. — Tort claims.

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V. THE ESTATE.(Cont'd)

- 2557. Property omitted from schedules.
- 2558. After-acquired property; proceeds; wages and earnings.
- 2559. Partnership and individual property.

(D) LIENS AND TRANSFERS; AVOIDABILITY.

Includes reservation of title, lien, or security interest on transfer to debtor.

- 2571. In general.
- 2572. Liens and security interests in general.
- 2573. Post-petition effect.
- 2574. Effect of state law, in general.
- 2575. Liens securing claims not allowed.
- 2576. Perfection or recordation under state law, in general.
- 2576.5. Security interests in general.
 - (1). In general.
 - (2). Particular cases and problems.
 - (3). Filing or recording; financing statement.
 - (3.1). — In general.
 - (4). — Place and time.
- 2577. Post-petition perfection.
- 2578. Mortgages and pledges.
- 2579. Motor vehicle transactions.
- 2580. Statutory liens.
- 2580.1. — In general.
- 2581. — Rent or distress.
- 2582. — Taxes.
- 2583. Mechanics' or laborers' liens.
- 2584. Judicial liens; attachment and garnishment.
- 2585. Attorneys' liens.
- 2586. Knowledge of or notice to trustee, debtor, or creditor.
- 2586.1. — In general.
- 2587. — Constructive notice.
- 2588. Post-petition transactions.

(E) PREFERENCES.

- 2601. In general.
- 2602. Nature of transfer.
- 2602.1. — In general.
- 2603. — Creation of lien or security interest.
- 2604. — Judicial liens; garnishment, attachment, or execution.
- 2605. — Statutory liens.
- 2606. Elements and exceptions.

V. THE ESTATE.(Cont'd)

- 2606.1. — In general.
- 2607. — Insolvency.
- 2608. — Time of transfer.
 - (1). In general.
 - (2). Insider transferees; reasonable cause to believe debtor insolvent.
- 2609. — Effect to give more than under bankruptcy distribution.
- 2610. — Ownership of interest transferred.
- 2611. — Third-party transfers.
- 2612. — Antecedent debt or contemporaneous consideration.
- 2613. — New value.
 - (1). In general.
 - (2). Particular cases.
 - (3). Contemporaneous character; time element.
 - (4). Subsequent advances; net result rule.
 - (5). Forbearance; release of lien.
- 2614. — Purchase money security interests; enabling loans.
- 2615. — Inventory and receivables security interests.
- 2616. — Transfers in ordinary course of business.
 - (1). In general.
 - (2). Time limits for payment; late payment.
 - (3). Date debt was incurred.
 - (4). Normal payment; credit or business transactions; settlement or agreement.
 - (5). Repayment of loans in general.
 - (6). Installment loans; running, credit card, or open accounts.
 - (7). Interest payments.
 - (8). Leases; rent.
 - (9). Return of goods to supplier.
- 2617. — Transfers to secured creditors; lien enforcement.
- 2618. — Consumer debt transfers.
- 2619. When transfer occurs.
- 2619.1. — In general.
- 2620. — Checks or drafts.
- 2621. Preference of partnership or individual creditors.

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V. THE ESTATE.(Cont'd)

- 2622. Set-off.
- 2623. Payments to attorneys.

(F) FRAUDULENT TRANSFERS.

- 2641. Fraudulent conveyances in general.
- 2642. Effect of state laws in general.
- 2643. Insolvency of debtor.
- 2644. Time of making transfer.
- 2645. Nature and form of transfer.
- 2645.1. — In general.
- 2646. — Payments by debtor.
- 2647. — Bulk transfers.
- 2648. Property or rights transferred.
- 2649. Intent of debtor.
- 2650. Consideration.
 - (1). In general.
 - (2). "Reasonably equivalent value" in general.
 - (3). Release or forbearance; antecedent obligation.
 - (4). Price at foreclosure, judicial, or trustee sale.
 - (5). Future or indirect benefit; benefit to third party.
- 2651. Transfer fraudulent as to partnership or individual creditors.

(G) SET-OFF.

- 2671. Set-off or recoupment in general.
- 2672. Necessity for court approval; discretion.
- 2673. Set-off against claim.
- 2674. Mutuality; identity of right, person, and capacity.
- 2675. Prepetition, post-petition, and unmatured debts.
- 2676. Disqualifying or limiting factors; assignment.
- 2677. Security deposits.
- 2678. Bank set-off.
See also FINANCE, BANKING, AND CREDIT
§688.
- 2679. Governmental claims; immunity waiver.
- 2680. Proceedings.

(H) AVOIDANCE RIGHTS.

1. IN GENERAL.

- 2701. Avoidance rights and limits thereon, in general.

V. THE ESTATE.(Cont'd)

- 2702. Rights of debtor or injured creditors.
- 2702.1. — In general.
- 2703. — Debtor in possession.
- 2704. Trustee as representative of debtor or creditors.
- 2705. Bona fide purchasers and rights thereof.
- 2706. Preservation of lien for benefit of estate.

2. PROCEEDINGS.

- 2721. In general.
- 2722. Time limitations; computation.
- 2723. Parties.
Excludes standing, see §2701–2705 above, and intervention and third-party practice, see §2160, 2161, above.
- 2724. Pleading.
- 2725. Evidence.
- 2725.1. — In general.
- 2726. — Presumptions.
 - (1). In general.
 - (2). Insolvency.
 - (3). Preferences.
 - (4). Fraudulent transfers.
- 2726.1. — Burden of proof.
 - (1). In general.
 - (2). Preferences.
 - (3). Fraudulent transfers.
- 2727. — Weight and sufficiency.
 - (1). In general.
 - (2). Preferences.
 - (3). Fraudulent transfers.
- 2728. Trial.
- 2729. Judgment or order; relief.

(I) RECLAMATION.

- 2741. Right to recover property from estate, in general.
- 2742. Seller's reclamation rights.
See also SALES §1951–1960.
- 2743. Demand.
- 2744. Proceedings.
- 2744.1. — In general.
- 2745. — Evidence and fact questions.

VI. EXEMPTIONS.

Excludes construction of state exemption laws, see EXEMPTIONS, HOMESTEAD.

- 2761. In general.

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VI. EXEMPTIONS.(Cont'd)

- 2762. Effect of state law.
- 2762.1. — In general.
- 2763. — Joint debtor's election.
- 2764. — Validity and effect of opt-out legislation.
- 2765. — Lien avoidance.
- 2766. Date of determination.
- 2767. Who may claim.
- 2767.1. — In general.
- 2768. — Dependents.
- 2769. — Co-debtors; stacking.
- 2770. Partnership and individual property.
- 2771. Property exempt.
- 2771.1. — In general.
- 2772. — Valuation, in general.
- 2773. — Entireties property.
- 2774. — Homestead; residence.
- 2775. — Household or personal goods.
- 2776. — Tools of trade.
- 2777. — Motor vehicles.
- 2778. — Farm equipment.
- 2779. — Pensions or benefits.
- 2780. — Life insurance.
- 2781. — Awards or amounts due on judgments.
- 2782. — Avoided transfers.
- 2783. "In lieu," "wild card," or "spill-over" exemption.
- 2784. Lien avoidance.
- 2784.1. — In general.
- 2784.2. — Purpose.
- 2784.3. — Property and exemptions affected; debtor's interest.
- 2784.4. — Liens avoidable.
 - (1). In general.
 - (2). Consensual liens; mortgages.
- 2784.5. — Debt adjustment cases; application to.
- 2785. — Judicial liens.
- 2786. — Lien under dissolution decree or separation agreement.
- 2787. — Non-possessory, non-purchase money security interests.
- 2788. — Household or personal goods.
- 2789. — Tools of trade.
- 2790. — Motor vehicles.
- 2791. — Farm equipment.
- 2792. — Homestead; residence.

VI. EXEMPTIONS.(Cont'd)

- 2793. Operation and effect.
- 2794. Claim of exemption or lien avoidance.
- 2794.1. — In general.
- 2795. — Timeliness.
- 2796. — Amendment.
- 2797. Waiver or loss of exemption.
- 2797.1. — In general.
- 2798. — Preference, fraudulent transfer, or concealment.
- 2799. Objections.
- 2799.1. — In general.
- 2800. — Who may object.
- 2801. — Time.
- 2802. — Proceedings.

VII. CLAIMS.

(A) IN GENERAL.

- 2821. In general.
- 2822. Creditors entitled to assert claims.
- 2822.1. — In general.
- 2823. — Co-debtors; subrogation.
- 2824. — Effect of avoidable transfer and surrender thereof.
- 2825. Claims allowable; what constitutes "claim."
- 2826. Effect of state law, in general.
- 2827. Claims by insiders and by attorneys in excess of value.
- 2828. Contingent or unliquidated claims.
- 2828.1. — In general.
- 2829. — Estimation of value.
- 2830. Tax claims.
- 2830.5. Environmental claims.
- 2831. Penalties, forfeitures, and punitive damages.
- 2832. Post-petition claims.
- 2832.1. — In general.
- 2833. — "Gap" creditors.
- 2834. — Rejection of executory contract or lease.
- 2835. Interest.
 - Excludes rate and computation, see INTEREST.*
- 2835.1. — In general.
- 2836. — Post-petition interest.
- 2837. Payment; interim awards.

(B) SECURED CLAIMS.

- 2851. In general.

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VII. CLAIMS.(Cont'd)

- 2852. Amount secured; partial security.
- 2853. Oversecurity.
- 2853.10. — In general.
- 2853.20. Fees, costs, or charges; attorney fees.
 - (1). In general.
 - (2). Reasonableness, necessity or utility of services.
 - (3). Contract provisions, necessity and effect.
 - (4). Amount; reasonableness thereof.
 - (5). Delinquency or late charges; penalties.
 - (6). Taxation; documentation requirements.
- 2853.30. — Interest.
- 2853.40. — Nonconsensual or statutory liens; tax liens.
- 2853.50. — Subordination; priority.
- 2853.60. — Value of claim or collateral; time of valuation.
- 2853.70. — Effect of state law.
- 2854. Liability of security for expense of preservation or disposition.
 - (1). In general.
 - (2). Benefit to creditor, in general.
 - (3). Particular cases and problems.
 - (3.1). — In general.
 - (4). — Expense of sale or disposition.
 - (5). — Farm expenses.
 - (6). — Attorney fees.
 - (7). — Creditor's consent; expenses caused by creditor.
 - (8). Proceedings and determination; persons entitled.
- 2855. Waiver, estoppel, forfeiture, or other loss of security.

(C) ADMINISTRATIVE CLAIMS.

- 2871. Administrative expenses in general.
- 2872. Reorganization cases.
- 2873. Time of accrual; prepetition claims.
- 2874. Governmental claims; taxes, etc.
- 2875. Wage and pension fund claims.
- 2876. Use and occupancy claims; administrative rent.
- 2876.5. Environmental claims.
- 2877. Professional services; attorney fees.
Includes treatment as administrative expense but excludes right to compensation, see IX(E), below.

VII. CLAIMS.(Cont'd)

- 2878. Expenses in opposing discharge.
See §2185, above, for allowance of costs in proceedings opposing discharge.
- 2879. Necessity for court approval.

(D) PROOF; FILING.

- 2891. In general.
- 2892. Necessity of filing; effect of failure.
- 2892.1. — In general.
- 2893. — Administrative claims; request for payment.
- 2894. — Secured claims.
- 2895. Who may file.
- 2895.1. — In general.
- 2896. — Trustee or debtor.
- 2897. Time for filing.
- 2897.1. — In general.
- 2898. — Filing by trustee or debtor.
- 2899. — Reorganization and municipal debt cases.
- 2900. — Extension of time; excuse for delay.
 - (1). In general.
 - (2). Lack or insufficiency of notice.
- 2901. Sufficiency of filing.
- 2901.1. — In general.
- 2902. — Informal proof.
- 2903. Amendment or withdrawal.
Excludes what constitutes an amendable claim, see §2901, above.
- 2904. Transfer or assignment.

(E) DETERMINATION.

- 2921. In general.
- 2922. Summary allowance; necessity for objection.
- 2923. Objections generally; time, form, and sufficiency; pleading.
- 2924. Waiver of objections.
- 2925. Evidence.
- 2925.1. — In general.
- 2926. — Presumptions and burden of proof.
- 2927. — Weight and sufficiency.
- 2928. — Effect of proof of claim.
- 2929. Notice and hearing.
- 2930. Appearance; default.
- 2931. Determination of secured status.

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VII. CLAIMS.(Cont'd)

- 2932. Order.
- 2933. Reconsideration.

(F) PRIORITIES.

- 2951. In general.
- 2952. Liens.
- 2953. Sureties, subrogees, and assignees in general.
- 2954. Governmental claims; taxes.
- 2954.1. — In general.
- 2955. — State and local government claims.
- 2956. — Federal claims.
- 2957. Interest and penalties.
- 2958. Employees' claims.
- 2958.1. — In general.
- 2959. — Time element; vacation pay.
- 2960. — Assignees of subrogees.
- 2961. — Benefit plan contributions.
- 2962. Costs and fees assessed against estate.
- 2963. Consumer purchases.
- 2964. Partnership claims.
- 2966. Superpriority; extension of credit or failure of adequate protection.
- 2967. Subordination.
- 2967.1. — In general.
- 2967.5. — Inequitable conduct.
- 2968. — Insiders, stockholders, fiduciaries, and dominant persons.
- 2969. — Security purchase rescission claims.
- 2970. — Subordination agreements.
- 2971. Marshaling.
- 2972. Determination of priority.

VIII. TRUSTEES.

- 3001. In general.
- 3002. Interim trustees.
- 3003. Eligibility and competency.
- 3004. Appointment; election.
- 3004.1. — In general.
- 3005. — Election disputes; certification by United States Trustee.
- 3006. Bond.
- 3007. Tenure and removal.
- 3008. Powers, duties and fiduciary capacity.
- 3008.1. — In general.

VIII. TRUSTEES.(Cont'd)

- 3009. — Representation of debtor, estate, or creditors.
- 3009.5. Environmental law.
- 3010. Instructions of court.
- 3011. Liabilities in general; accounting.

IX. ADMINISTRATION.

Excludes matters peculiar to reorganization or debt adjustment cases, see XVIII et seq., below.

(A) IN GENERAL.

- 3021. In general.
- 3022. Debtor's duties in general.
- 3023. Redirection of mail.
- 3024. Creditors' and equity security holders' committees and meetings.
- 3025. Operation of business; contracts.
- 3025.1. — In general.
- 3026. — Debtor in possession.
- 3027. Expenditures in general.
- 3028. Personal expenses of debtor.
- 3029. Employment of professional persons or debtor's officers.
Excludes compensation, see IX(E), below.
- 3029.1. — In general.
- 3030. — Attorneys.
- 3030.5. Petition preparers.
- 3030.6. — In general.
- 3030.7. — Definitions; who is a preparer.
- 3030.8. — Duties, functions and prohibited conduct.
Excludes unauthorized practice of law; see ATTORNEY AND CLIENT §12(19).
- 3030.9. — Proceedings.
- 3030.10. — Fines, damages and costs.
- 3030.11. — Certification to district courts.
- 3030.12. — Injunction.
- 3031. Submission to arbitration.
- 3032. Compromises, releases, and stipulations.
- 3032.1. — In general.
- 3033. — Judicial authority or approval.
- 3034. Redemption.
- 3035. Obtaining credit.
- 3035.1. — In general.
- 3036. — Credit with priority or security.
- 3037. — Cross-collateralization.
- 3038. — Proceedings.
- 3039. Deposits and investments.

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IX. ADMINISTRATION.(Cont'd)

- 3040. Examination and discovery.
- 3040.1. — In general.
- 3041. — Proceedings and order.
- 3042. — Place and time.
- 3043. — Compelling attendance.
- 3044. — Production of documents.
- 3045. — Payment of fees and expenses.
- 3046. — Conduct of examination.
 - (1). In general.
 - (2). Refusal to answer.
- 3047. — Scope and extent of inquiry.
 - (1). In general.
 - (2). Privilege.
- 3048. — Use and effect in evidence.

(B) POSSESSION, USE, SALE, OR LEASE OF ASSETS.

- 3061. In general.
- 3062. Adequate protection in general.
- 3063. Collection and recovery for estate; turnover.
 - 3063.1. — In general.
- 3064. — Turnover by custodians.
- 3065. — Adequate protection requirement.
- 3066. — Proceedings.
 - (1). In general.
 - (2). Form and nature; adversary proceeding or application or motion.
 - (3). Damages claims.
 - (4). Parties; standing.
 - (4.1). — In general.
 - (5). — Shareholder actions.
 - (6). Evidence and fact questions.
- 3067. Sale or assignment of property.
- 3067.1. — In general.
- 3068. — Encumbered property; limited or joint interests.
- 3069. — Time for sale; emergency and sale outside course of business.
- 3070. — Order of court and proceedings therefor in general.
- 3071. — Notice.
- 3072. — Manner and terms.
 - (1). In general.
 - (2). Adequacy of price; appraisal.
- 3073. — Adequate protection; sale free of liens.

IX. ADMINISTRATION.(Cont'd)

- 3074. — Validity.
- 3075. — Confirmation.
- 3076. — Conveyance or delivery.
- 3077. — Payment and recovery, or recovery back, of purchase price.
- 3078. — Application of proceeds.
 - (1). In general.
 - (2). Liens in general.
 - (3). Mortgages.
- 3079. — Rights and liabilities of purchasers, and right to purchase.
- 3080. — Setting aside.
- 3081. — Collateral attack.
- 3082. Cash collateral, use of.
 - 3082.1. — In general.
- 3083. — Adequate protection.
- 3084. — Proceedings.
- 3085. Lease.
- 3086. Assignment of lease or sublease.
 - 3086.1. — In general.
- 3087. — Restrictions in lease.
- 3088. — Adequate assurance.

(C) DEBTOR'S CONTRACTS AND LEASES.

- 3101. In general.
- 3102. Assumption, rejection, or assignment.
 - 3102.1. — In general.
- 3103. — Time for decision.
 - (1). In general.
 - (2). Fixed time or number of days.
 - (3). Extension of time.
 - (4). Reasonable time.
 - (5). Computation.
 - (6). Waiver and estoppel.
- 3103.1. — Necessity for decision.
- 3103.2. — What constitutes decision, deemed acceptance, assumption or rejection.
- 3104. — Necessity for court approval.
- 3105. Contracts assumable; assignability.
 - 3105.1. — In general.
- 3106. — Executory nature in general.
- 3107. — Leases.
- 3108. — Collective bargaining agreements.
- 3109. — "Ipso facto" clauses.
- 3110. Grounds for and objections to assumption, rejection, or assignment.
 - 3110.1. — In general.

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IX. ADMINISTRATION.(Cont'd)

- 3111. — “Business judgment” test in general.
- 3112. — Leases.
- 3113. — Collective bargaining agreements.
- 3114. Curing defaults; adequate assurance.
- 3115. Effect of acceptance or rejection.
Excludes liability for damages for rejection as breach, see ¶2834, above.
- 3115.1. — In general.
- 3116. — Partial assumption; burdens and benefits.
- 3117. Proceedings.

(D) ABANDONMENT.

- 3131. In general.
- 3132. Necessity for judicial approval.
- 3133. Concealed or undiscovered assets.
- 3134. Public health and safety considerations.
- 3135. Effect.
- 3136. Revocation.
- 3137. Proceedings.

(E) COMPENSATION OF OFFICERS AND OTHERS.

1. IN GENERAL.

Excludes status of compensation award as an administrative claim, see ¶2877, recovery of fees provided for by agreement pertaining to property securing debt, see ¶2853, compensation of insiders and of attorneys in excess of value, see ¶2827, and costs and expenses of preserving or disposing of collateral, see ¶2854.

- 3151. In general.
- 3152. Trustees.
- 3153. Examiners.
- 3154. Creditors’ committees.

2. PROFESSIONAL PERSONS IN GENERAL.

- 3155. In general.
- 3156. Necessity of appointment or approval.
- 3156.1. — In general.
- 3157. — Nunc pro tunc appointment or approval.
- 3158. Interim compensation.
- 3159. Items and services compensable.
- 3160. Amount; hourly rate.
- 3161. Accountants.
- 3162. Appraisers.
- 3163. Brokers.
- 3164. Management consultants.
- 3165. Paraprofessionals.
- 3165.5. Petition preparers.

IX. ADMINISTRATION.(Cont'd)

- 3166. Procedure.
- 3166.1. — In general.
- 3167. — Application; documentation and itemization.
- 3168. — Objections.
- 3169. — Evidence.

3. ATTORNEYS.

- 3170. In general.
- 3171. Discretion.
- 3172. Necessity of appointment or approval.
- 3172.1. — In general.
- 3173. — Nunc pro tunc appointment or approval.
- 3174. Persons entitled; members and associates.
- 3175. Interim compensation.
- 3176. Estoppel and waiver.
- 3177. Conflict of interest.
- 3178. Misconduct.
- 3179. Disclosure requirements.
- 3180. Items and services compensable.
- 3181. — In general.
- 3182. — Necessity of service.
- 3183. — Benefit to estate.
- 3184. — Services personal to debtor.
- 3185. — Prepetition services.
- 3186. — Preparation of fee request.
- 3187. — Expenses.
 - (1). In general.
 - (2). Clerical, stenographic or copying services.
 - (3). Transportation and meals.
 - (4). Paraprofessional services.
- 3188. — Duplicative services; co-counsel.
- 3190. — Performance of trustee’s duties.
- 3191. Amount.
- 3192. — In general.
- 3193. — Factors considered in general.
- 3194. — Lodestar amount and deviations therefrom.
- 3195. — Time expended.
- 3196. — Hourly rate.
- 3197. — Results obtained.
- 3198. — Skill or experience; novelty.
- 3199. — Ministerial or routine acts; travel or other nonlegal work.

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IX. ADMINISTRATION.(Cont'd)

- 3200. — Effect of contract; prior compensation.
- 3201. — Trustee as attorney.
- 3202. Procedure.
 - 3202.1. — In general.
- 3203. — Application; documentation and itemization.
 - (1). In general.
 - (2). Sufficiency; documentation and itemization.
 - (2.1). — In general.
 - (3). — Time.
 - (4). — Research.
 - (5). — Correspondence, conferences, and telephone calls.
 - (6). — Expenses.
 - (7). — Aggregation or lumping; ineligible items.
- 3204. — Objections; sua sponte determination.
- 3205. — Evidence.

X. DISCHARGE.

Excludes matters peculiar to individual debt adjustment cases, see §3718, below.

(A) IN GENERAL.

- 3251. In general.
- 3252. Waiver of discharge.

(B) DISCHARGEABLE DEBTORS.

1. IN GENERAL.

- 3271. In general.
- 3272. Corporations.
- 3273. Grounds for denial of discharge.
 - 3273.1. — In general.
- 3274. — Intent.
- 3275. Successive proceedings.
- 3276. Fraudulent or preferential transfer.
 - 3276.1. — In general.
- 3277. — Transfer to nondebtor spouse or family members.
- 3278. Failure to keep records.
 - 3278.1. — In general.
- 3279. — Sufficiency of records.
- 3280. — Justification.
- 3281. Destruction or mutilation of records.
- 3282. False oath or account.

X. DISCHARGE.(Cont'd)

- 3282.1. — In general.
- 3283. — Oath or account as to property or indebtedness.
- 3284. — Errors on and omissions from schedules.
- 3285. Withholding records; failure to cooperate with trustee.
- 3286. Failure to explain loss or deficiency.
- 3287. Refusal to obey court order; asserting privilege against self-incrimination.
- 3288. Concealment of property.
 - 3288.1. — In general.
- 3289. — Nature of property; debtor's interest.
- 3290. Insider acts.

2. DETERMINATION OF DISCHARGEABILITY.

- 3311. In general.
- 3312. Time for proceedings.
- 3313. Pleading.
- 3314. Evidence.
 - 3314.1. — In general.
- 3315. — Presumptions and burden of proof.
 - (1). In general.
 - (2). Particular grounds for objection to discharge.
- 3316. — Admissibility.
- 3317. — Weight and sufficiency.
 - (1). In general.
 - (2). Particular grounds for objection to discharge.
 - (2.1). — In general.
 - (3). — Concealment; omission.
 - (4). — Failure to explain loss or deficiency.
 - (5). — Fraudulent or preferential transfers.
 - (6). — Records, matters relating to.
 - (7). — False oath or account.
- 3318. Hearing, determination, and order; discretion.
 - 3318.1. — In general.
- 3319. — Presence of debtor.
- 3320. Revocation or modification.
 - 3320.1. — In general.
- 3321. — Grounds.
- 3322. — Application, hearing, and determination.

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(C) DEBTS AND LIABILITIES DISCHARGED.

1. IN GENERAL.

- 3341. In general.
- 3342. Effect of state law in general.
- 3343. Particular debts or liabilities.
- 3343.1. — In general.
- 3343.2. — Costs and fees.
- 3343.3. — Debts not scheduled or listed.
- 3343.4. — Post-petition debts or liabilities.
- 3343.5. — Taxes and assessments.
- 3344. Governmental overpayments.
- 3345. Environmental cleanup obligations.
- 3346. Consumer credit charges.

2. DEBTS ARISING FROM DIVORCE OR SEPARATION.

- 3363. In general.
- 3364. Pension allocations.
- 3365. Property distribution and alimony, maintenance, or support.
 - (1). In general.
 - (2). Property distribution or spousal support, particular applications.
 - (3). — In general.
 - (4). — Obligations assumed.
 - (5). — Obligations assigned; public agency claims.
 - (6). — Payments to protect residence or automobile and utilities.
 - (7). — Credit card debts.
 - (8). — Medical or dental bills and life insurance.
 - (9). — Legal expenses.
 - (10). — Guardian ad litem fees.
 - (11). — Indemnity or hold-harmless provisions.
 - (12). — Contractual provisions; separation agreements.
 - (13). Child support.
- 3366. Effect of state law.
- 3367. Nondischargeability of property distributions.
 - (1). In general.
 - (2). Ability to pay.
 - (3). Benefit/detriment analysis.
- 3368. Nonmarital relationships; same-sex or other nontraditional unions.

3. EDUCATIONAL LOANS.

- 3369. In general.
- 3370. Time factor.
- 3371. Hardship.
 - (1). In general.
 - (2). Hardship found.
 - (3). Hardship not found.

4. FRAUD.

- 3372.1. In general.
- 3372.2. Purpose of exception to dischargeability.
- 3372.3. Elements of fraud in general.
- 3372.4. Particular representations.
- 3372.5. Matters of opinion.
- 3372.6. Financial condition; value.
- 3372.7. Necessity of writing.
- 3372.8. False pretenses; conduct, concealment, omission or silence; implied representations.
- 3372.9. Promise or intention of future action; failure to pay or perform.
- 3372.10. Obtaining money, property, or service.
- 3372.11. Extension of credit.
- 3372.12. Cause of loss.
- 3372.13. Fraud committed by agent or one other than debtor.
- 3372.14. Actual, constructive, or implied fraud.
- 3372.15. Intent or knowledge.
- 3372.19. Moral turpitude.
- 3372.20. Obtaining money or property for another.
- 3372.21. Judgments.
- 3372.22. Construction contracts.
- 3372.23. Transactions involving collateral or security.
- 3372.24. Use of checks.
- 3372.25. Credit cards; charge accounts.
- 3372.26. Use of money or property obtained.
- 3372.27. False financial statements.
- 3372.28. — In general.
- 3372.29. — Writings; publication.
- 3372.30. — Intent; recklessness.
- 3372.31. — "Materially false" statements.
- 3372.32. — Omissions.
- 3372.33. — Corporations; partnerships.
- 3372.34. — Husband and wife.
- 3372.35. Refinancing or renewal of credit.

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X. DISCHARGE.(Cont'd)

- 3372.36. Reliance; time element.
- 3372.37. Reasonable or justifiable reliance.
- 3372.38. — In general.
- 3372.39. — Creditor's duty to investigate; sufficiency of investigation.
- 3372.40. — Loss or prejudice.
- 3372.41. — Partial reliance.
- 3372.42. — Particular cases.
- 3372.43. — Banks, cases involving.
- 3372.44. Luxury goods.

5. TORTS AND CRIMES.

- 3373. In general.
- 3374. Willful or malicious injury.
 - (1). In general.
 - (2). Willfulness; willful injury.
 - (5). Malice; malicious injury.
 - (8). Particular injuries.
 - (9). — In general; fraud.
 - (10). — Conversion and civil theft.
 - (11). — Disposition of or injury to collateral.
 - (12). — Drunk or reckless driving; vehicular homicide.
- 3375. Larceny or embezzlement.
- 3376. Fraud or defalcation in fiduciary capacity.
 - (1). In general.
 - (2). Fiduciaries and fiduciary capacity.
 - (3). — In general.
 - (4). — Trustees.
 - (5). Defalcation.
 - (6). Fraud.
- 3377. Fines, penalties, and forfeitures; punitive damages, and interest.
- 3378. Probation and conditions; restitution.

(D) DETERMINATION OF DISCHARGEABILITY.

- 3395. In general.
- 3396. Time for proceedings.
- 3397. — In general.
- 3398. — Extension of time.
- 3399. Pleading.
- 3400. Parties; standing.
- 3401. Evidence.
- 3402. — In general.
- 3403. — Presumptions and burden of proof.

X. DISCHARGE.(Cont'd)

- (1). In general.
- (2). Alimony; support or maintenance.
- (3). Property distribution on divorce or separation.
- (4). Educational loans.
- (5). Debts for goods, services, or credit obtained by fraud.
- (6). — In general.
- (7). — Intent.
- (8). — False financial statements.
- (9). — Loans and notes; bad checks.
- (10). — Credit cards; charge accounts.
- (11). Defalcation; larceny; embezzlement.
- (12). Willful or malicious injury.
- (13). Luxury goods or services.
- (14). Unscheduled debts; notice.
- 3404. — Admissibility.
- 3405. — Weight and sufficiency.
 - (1). In general.
 - (2). Alimony; support or maintenance.
 - (3). Property distribution on divorce or separation.
 - (4). Educational loans.
 - (5). Debts for goods, services, or credit obtained by fraud.
 - (6). — In general.
 - (7). — False financial statements.
 - (8). — Loans and notes; bad checks.
 - (9). — Credit cards; charge accounts.
 - (10). Defalcation; larceny; embezzlement.
 - (11). Willful or malicious injury.
 - (12). Degree of proof required.
 - (13). — In general.
 - (14). — Particular cases.
- 3406. Questions for jury.
- 3407. Hearing and determination; default.
- 3408. — In general.
- 3409. — Award on determination of non-dischargeability.

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(E) EFFECT OF DISCHARGE.

Excludes limitations on proceedings, sanctions, or discrimination against debtor, see IV, above.

- 3411. In general.
- 3412. Effect as to co-debtors, guarantors, and sureties.
- 3413. Effect as to securities and liens.
- 3413.1. — In general.
- 3414. — Judgments or executions.
- 3415. Reaffirmation.
- 3415.1. — In general.
- 3416. — Grounds for approval or rejection.
- 3417. — Judicial hearing and approval.
Excludes evidence of reaffirmation, see 3419, below.
- 3418. Pleading discharge.
- 3419. Evidence as to discharge or reaffirmation.
Excludes evidence relating to initial dischargeability proceedings in the debtor's bankruptcy case, see 3401-3405 above.

XI. LIQUIDATION, DISTRIBUTION, AND CLOSING.

- 3441. In general.
- 3442. Distribution.
- 3442.1. — In general.
- 3443. — Order of distribution.
- 3444. Reopening.
- 3444.10. — In general.
- 3444.20. — Discretion.
- 3444.30. — Grounds and objections.
 - (1). In general.
 - (2). Unadministered assets.
 - (3). Omitted creditors.
 - (4). Avoidance of liens.
 - (5). Prejudice or harm to creditors.
 - (6). No-asset cases.
 - (7). Fraud or collusion.
 - (8). State court or other non-bankruptcy determinations.
- 3444.40. — Conditions.
- 3444.50. — Proceedings.
 - (1). In general.
 - (2). Standing; sua sponte determinations.
 - (3). Time for proceeding; laches.
 - (4). Evidence.
- 3444.60. — Effect.
- 3445. Reversion of surplus to debtor.

XII. BROKER AND CLEARING BANK LIQUIDATION.

- 3461. Stock or commodity broker liquidation in general.

Excludes proceedings under supervision of the Securities Investor Protection Corporation, see SECURITIES REGULATION 185.10 to 185.21.

- 3471. Clearing bank liquidation in general.

XIII. ADJUSTMENT OF DEBTS OF A MUNICIPALITY.

- 3481. In general.

XIV. REORGANIZATION.

(A) IN GENERAL.

This division is limited to concepts, proceedings, and entities not familiar to straight bankruptcy.

- 3501. In general; nature and purpose.
- 3502. Good faith; motive.
- 3502.1. — In general.
- 3502.5. — "Good faith."
- 3502.10. — "Bad faith."
- 3502.15. — Realistic possibility of reorganization.
- 3502.20. — Abuse of judicial process.
- 3502.25. — Frustration or delay of creditors.
- 3503. — Recent organization or transfer.
- 3504. Aircraft equipment and vessels.

(B) THE PLAN.

- 3531. In general.
- 3532. Duty to file.
- 3533. Who may file, and time for filing.
- 3533.1. — In general.
- 3534. — Creditors; loss of debtor's exclusive right.
- 3535. — Separate plans.
- 3536. Impairment of claims or interests.
- 3536.1. — In general.
- 3537. — Curing defaults.
- 3538. Valuation.
- 3539. Disclosure and solicitation.
- 3539.1. — In general.
- 3540. — Proceedings for approval; objections.
- 3541. Acceptance.
- 3541.1. — In general.
- 3542. — By one class.
- 3543. — "Deemed" acceptance; unimpaired classes.

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XIV. REORGANIZATION.(Cont'd)

- 3544. — Eligibility to vote; impairment.
- 3545. — Number of creditors and amount of claims concurring.
- 3546. — Insiders, acceptance by.
- 3547. — Determination.
- 3548. Requisites of confirmable plan.
- 3548.1. — In general.
- 3549. — Contents in general.
- 3550. — Classification of claims.
- 3551. — Specification of impairment.
- 3552. — Equality of treatment within classes.
- 3553. — Means of implementation.
- 3554. — Optional provisions.
- 3555. — Settlement, adjustment, or enforcement of claims.
- 3556. — Sale or liquidation.
- 3557. — Limitations on exemptions.
- 3558. Good faith and legality.
- 3559. Feasibility in general.
- 3560. Provisions for satisfaction of claims; relation to recovery in liquidation.
- 3561. Preservation of priority.
- 3562. Tax claims.
- 3563. Fairness and equity; “cram down.”
- 3563.1. — In general.
- 3564. — Secured creditors, protection of.
- 3565. — Unsecured creditors and equity holders, protection of.
- 3566. Confirmation; objections.
- 3566.1. — In general.
- 3567. — Notice.
- 3568. — Effect.
 - (1). In general.
 - (2). Conclusiveness.
 - (3). Effect as discharge.
- 3569. Modification or revocation.
- 3570. Construction, execution, and performance.

(C) CONVERSION OR DISMISSAL.

- 3591. In general; grounds in general.
Excludes motive or want of good faith, see §3502, 3503, above, and dismissal before presentation of plan, see §2259–2264, 2295, above.
 - (1). In general.
 - (2). Dismissal or suspension.
 - (3). Discretion.
 - (4). Want or inadequacy of plan.

XIV. REORGANIZATION.(Cont'd)

- (5). Farmer cases.
- 3592. Loss to or diminution of estate and unlikelihood of rehabilitation.
- 3593. Proceedings.
- 3594. Effect; proceedings in converted case.

(D) ADMINISTRATION.

- 3621. In general; judicial supervision.
- 3622. Debtor in possession, in general.
- 3623. Appointment of trustee or examiner.
- 3623.1. — In general.
- 3624. — Necessity or grounds.
- 3625. — Presumption against appointment.
- 3626. — Proceedings.
- 3627. Examiner's functions and duties.

(E) RAILROAD REORGANIZATION.

Excludes reorganization under non-bankruptcy laws, see RAILROADS §30.

- 3651. In general.
- 3652. Plan.
- 3653. Operation of railroad and abandonment or sale of lines and property.
- 3654. Interests in rolling stock.

XV. ARRANGEMENTS.

(A) IN GENERAL.

- 3661.100. In general.
- 3661.101. Provisions of arrangement.
- 3661.102. Acceptance and confirmation.
- 3661.103. Effect of confirmation, and proceedings thereafter.
- 3661.104. Dismissal and adjudication.

(B) REAL PROPERTY ARRANGEMENTS.

- 3661.111. In general.
- 3661.112. Provisions of arrangement.
- 3661.113. Acceptance and confirmation.
- 3661.114. Effect of confirmation, and proceedings thereafter.
- 3661.115. Dismissal and adjudication.

XVI. COMPOSITIONS.

- 3662.100. Right to offer.
- 3662.101. Proceedings in general.
- 3662.102. Terms.
- 3662.103. Acceptance by creditors.

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XVI. COMPOSITIONS.(Cont'd)

- 3662.104. Deposit for payments.
- 3662.105. Application in general.
- 3662.106. Notice of application.
- 3662.107. Objections to composition.
- 3662.108. Hearing and determination of application.
- 3662.109. Confirmation and proceedings thereon.
- 3662.110. — In general.
- 3662.111. — Distribution.
- 3662.112. Setting aside.
- 3662.113. Operation and effect.
- 3662.114. New promise to pay debt.
- 3662.115. Pleading.

XVII. ADJUSTMENT OF DEBTS OF FAMILY FARMER.

(A) IN GENERAL.

- 3671. In general.
- 3672. Trustee or debtor in possession.
- 3673. Conversion or dismissal.
- 3674. Discharge.
Includes only matter peculiar to this proceeding.

(B) THE PLAN.

- 3681. In general.
- 3682. Contents; pre-confirmation modification.
- 3683. Confirmation.
- 3683.1. — In general.
- 3683.3. — Modification.
- 3683.5. — Revocation of confirmation.
- 3685. Payments; implementation.

XVIII. INDIVIDUAL DEBT ADJUSTMENT.

- 3701. In general.
- 3702. Good faith in general.
- 3703. Administration; debtor's status; appointment of trustee.
- 3704. Plan.
- 3704.1. — In general.
- 3705. — Claims and assets; propriety and feasibility in general.
- 3706. — Good faith in general.
 - (1). In general.
 - (1.5). Factors considered in determining presence of good faith.
 - (2). Particular plans.

XVIII. INDIVIDUAL DEBT ADJUSTMENT.(Cont'd)

- 3707. — Classification and discrimination.
- 3708. — Secured claims; cram down.
 - (1). In general.
 - (2). Lien retention.
 - (3). Adequate protection; insurance.
 - (4). Surrender of property.
 - (5). Cram down.
 - (6). Valuation; periodic payments.
 - (7). Mortgages in general.
 - (8). Modification of claim, right, or debt in general.
 - (9). Security interests in principal residences.
- 3709. — Unsecured claims.
- 3710. — Amount of repayment; de minimis repayment.
 - (1). In general.
 - (2). Payment in full.
 - (3). Substantial or meaningful payment.
 - (4). Payment of 20% or less.
 - (5). Token, nominal, de minimis, or zero payment.
 - (6). Present value; time value differential; interest.
Excludes rate of interest, see INTEREST.
 - (7). Relation to recovery in liquidation.
- 3711. — Curing defaults.
 - (1). In general.
 - (2). Mortgages in general.
 - (3). Home mortgages or similar obligations.
 - (4). Accelerated maturity; effect of foreclosure.
 - (5). Time allowed for cure.
 - (6). Effect of state law.
- 3712. — Mode of repayment; third-person payments.
- 3713. — Time for completion; extension or modification.
- 3714. — Payments outside plan.
- 3715. — Acceptance and confirmation.
 - (1). In general.
 - (2). Discretion; mandatory confirmation.
 - (3). Proceedings in general.
 - (4). Recommendation by trustee.

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XVIII. INDIVIDUAL DEBT ADJUSTMENT.(Cont'd)

- (5). Acceptance or rejection by creditors.
- (6). Objections; sua sponte determinations.
- (7). Evidence.
- (8). Order of confirmation.
- (9). Effect.
- (9.1). — In general.
- (10). — Conclusiveness; res judicata; collateral estoppel.
- (11). — Property of estate.
- (12). — Liens and encumbrances; secured creditors.
- (13). — Tax claims.
- (14). Revocation, vacation or reconsideration.
- 3716. Conversion or dismissal.
- 3716.10. — In general.
- 3716.20. — Conversion.
 - (1). In general.
 - (2). Voluntary conversion; request by debtor.
 - (2.1). — In general.
 - (3). — Effect of motion to dismiss.
 - (4). Involuntary conversion; request by creditors or other parties in interest.
 - (4.1). — In general.
 - (5). — Grounds or cause.
 - (6). — Effect of motion to dismiss.
 - (7). Proceedings to which case may be converted.
 - (8). Proceedings.
 - (9). — In general.
 - (10). — Motions; sua sponte determinations.
 - (11). — Hearing and notice.
 - (12). — Evidence.
- 3716.30. — Dismissal.
 - (1). In general.
 - (2). Voluntary dismissal; request by debtor.
 - (2.1). — In general.
 - (3). — Effect of motion for conversion.
 - (4). Involuntary dismissal; request by creditors or other parties in interest.

XVIII. INDIVIDUAL DEBT ADJUSTMENT.(Cont'd)

- (4.1). — In general.
- (5). — Grounds or cause in general; bad faith.
- (6). — Failure to make payments or comply with plan.
- (7). Proceedings.
- (8). — In general.
- (9). — Motions; sua sponte determinations.
- (10). — Hearing and notice.
- (11). — Evidence.
- 3716.40. — Revocation, withdrawal of request and reinstatement.
- 3717. — Effect; proceedings in converted case.
- 3718. Discharge.
 - (1). In general.
 - (2). Discharge in liquidation compared.
 - (3). Completion of plan; hardship.
 - (4). Successive proceedings.
 - (5). Debts dischargeable.
 - (5.1). — In general.
 - (6). — Debts provided for in plan; unfiled claims.
 - (7). — Educational loans.
 - (8). — Fraud, tort, or crime, liabilities for.
 - (9). — Taxes; government claims.
 - (10). Objections; proceedings.

XIX. REVIEW.

(A) IN GENERAL.

- 3741. In general.

(B) REVIEW OF BANKRUPTCY COURT.

- 3761. In general.
- 3762. Jurisdiction.
 - 3762.1. — In general.
- 3763. — Appellate Panel.
- 3764. — District Court.
- 3765. — Court of Appeals.
- 3766. Decisions reviewable.
 - 3766.1. — In general.
- 3767. — Finality.
- 3768. — Interlocutory orders; collateral order doctrine.

54. BENEFICIAL ASSOCIATIONS

XIX. REVIEW.(Cont'd)

- 3769. — Relief from automatic stay.
- 3770. Presentation of grounds for review.
- 3771. Right of review and persons entitled; parties; waiver or estoppel.
- 3772. Petition for leave; appeal as of right; certification.
- 3773. Taking and perfecting appeal; time; bond.
- 3774. Notice of appeal; time.
- 3774.1. — In general.
- 3775. — Relief from limitation; excusable neglect.
- 3776. Effect of transfer.
- 3776.1. — In general.
- 3776.5. — Supersedeas or stay.
 - (1). In general.
 - (2). Right; grant or denial; discretion.
 - (3). Bond.
 - (4). Proceedings; which court.
 - (5). Effect of want of stay; conclusiveness of sale.
- 3777. Record; assignments of error; briefs.
- 3778. Dismissal; hearing.
- 3779. Scope of review in general.
- 3780. Questions of law or fact.
- 3781. Moot questions.
- 3782. Conclusions of law; de novo review.
- 3783. Presumptions and burdens of proof.
- 3784. Discretion.
- 3785. Findings of fact.
- 3785.1. — In general.
- 3786. — Clear error.
- 3787. — Particular cases and issues.
- 3788. Harmless error.
- 3789. Determination and disposition; additional findings.
- 3789.1. — In general.
- 3790. — Remand.

(C) REVIEW OF APPELLATE PANEL.

- 3811. In general.

(D) REVIEW OF DISTRICT COURT.

- 3831. In general.
Excludes review of decisions of district courts sitting as courts of review on appeal from bankruptcy courts, see 3761 et seq., above.
- 3832. Jurisdiction.
- 3833. Decisions reviewable.

XIX. REVIEW.(Cont'd)

- 3833.1. — In general.
- 3834. — Finality; interlocutory orders.
- 3835. Proceedings for review.
- 3836. Review.
- 3837. Determination and disposition.

XX. OFFENSES.

- 3861. In general.
- 3862. Prosecutions.
- 3863. Evidence and fact questions.

54. BENEFICIAL ASSOCIATIONS

SUBJECTS INCLUDED

Bodies incorporated or unincorporated, frequently as fraternal lodges, formed for the purpose of mutual pecuniary aid to members or to persons dependent on members, by means of contributions or assessments

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Corporations or unincorporated associations in general, see CORPORATIONS AND BUSINESS ORGANIZATIONS, ASSOCIATIONS

Insurance, societies formed for purposes of, see INSURANCE

Loans to members, societies making, see FINANCE, BANKING, AND CREDIT IV

- 1. Nature and status in general.
- 2. Statutory provisions.
- 3. Incorporation and organization.
- 4. Name.
- 5. Constitutions and by-laws.
 - (1). In general.
 - (2). Amendment.
- 6. Membership.
- 7. — In general.
- 8. — Admission of members.
- 9. — Withdrawal of members.
- 10. — Forfeiture of membership, and expulsion or suspension of members.
 - (1). In general.

54. BENEFICIAL ASSOCIATIONS

- (2). Causes.
- (3). Notice.
- (4). Procedure.
- (5). Waiver of objections.
- (6). Control by court.
- (7). Rights of expelled or suspended member.
- 11. — Reinstatement of members.
- 12. — Recourse by members to courts.
- 13. Dues, fines, and assessments.
 - (1). In general.
 - (2). By-laws and regulations.
 - (3). Notice of assessment or delinquency.
 - (4). Payment.
- 14. Officers and committees.
- 15. Powers of societies in general.
- 16. Superior, subordinate, and affiliated bodies.
- 17. Property and funds; loans.
- 18. Benefits.
 - (1). In general.
 - (2). Right to benefits in general.
 - (3). Application for benefits.
 - (4). Failure to pay dues or assessments.
 - (5). Recourse to courts.
 - (6). Extent of recovery.
 - (7). Payment and persons entitled thereto.
 - (8). Disposition.
- 19. Rights and liabilities as to persons not members or beneficiaries.
- 20. Actions by or against associations.
 - (5). In general.
 - (1). Nature and form.
 - (2). Conditions precedent.
 - (3). Process.
 - (4). Time to sue and limitations.
See also LIMITATION OF ACTIONS.
 - (5). Parties.
 - (6). Pleading.
 - (7). Evidence.
 - (8). Trial and judgment.
 - (9). New trial.
- 21. Insolvency and receivers.
- 22. Dissolution.
- 23. Offenses.

56. BILLS AND NOTES

SUBJECTS INCLUDED

Instruments in writing whereby the maker requests, orders, or promises payment of a certain sum of money absolutely, whether negotiable or not

Nature, requisites, validity, incidents, construction, operation and effect of such instruments

Acceptance of such requests or orders

Endorsement and other modes of transfer of such instruments, and rights of transferees

Demand of acceptance or payment, protest for non-acceptance or nonpayment, and notice thereof

Payment or renewal

Actions on such instruments

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Alterations, effect of, see ALTERATION OF INSTRUMENTS

Bank checks, rights and liabilities of bankers and depositors, see FINANCE, BANKING, AND CREDIT IV(J)

Contracts generally; promises to pay in services, goods, or the like, or upon condition, see CONTRACTS

Guaranty or suretyship for payment of bills and notes, see GUARANTY, PRINCIPAL AND SURETY

Illegality, particular grounds of, see SUNDAY, USURY, GAMING and other specific topics

Lost bills or notes, establishing and recovering on, see LOST INSTRUMENTS

Other contracts or transactions, bills and notes incidental thereto, see INSURANCE, SALES, VENDOR AND PURCHASER and other specific topics

Particular classes of persons, bills and notes by, see INFANTS, MENTAL HEALTH and other specific topics

— Associations and unincorporated companies, see ASSOCIATIONS, CORPORATIONS AND BUSINESS ORGANIZATIONS XV

— Corporations, see CORPORATIONS AND BUSINESS ORGANIZATIONS

— Fiduciary or representative relations, persons in, see EXECUTORS AND

56. BILLS AND NOTES

ADMINISTRATORS, GUARDIAN AND WARD, PRINCIPAL AND AGENT, TRUSTS and other specific topics

—— Partners, see PARTNERSHIP

—— Political or municipal bodies, see COUNTIES, MUNICIPAL CORPORATIONS, UNITED STATES and other specific topics

I. REQUISITES AND VALIDITY,

§§1-115.

(A) FORM AND CONTENTS OF BILLS OF EXCHANGE, DRAFTS, CHECKS, AND ORDERS, §§1-27.

(B) FORM AND CONTENTS OF PROMISSORY NOTES AND DUEBILLS, §§28-53.

(C) EXECUTION AND DELIVERY, §§54-65.

(D) ACCEPTANCE, §§66-89.

(E) CONSIDERATION, §§90-98.

(F) VALIDITY, §§99-115.

II. CONSTRUCTION AND OPERATION, §§116-135.

III. MODIFICATION, §136.

IV. EXTENSION AND RENEWAL, §§137-142.

V. RESCISSION, §143.

VI. NEGOTIABILITY, §§144-175.

VII. TRANSFER, §§176-222.

(A) BY INDORSEMENT, §§176-202.

(B) WITHOUT INDORSEMENT, §§203-222.

VIII. RIGHTS AND LIABILITIES ON INDORSEMENT OR TRANSFER, §§223-384.

(A) BEFORE DELIVERY TO OR TRANSFER BY PAYEE, §§223-266.

(B) INDORSEMENT FOR TRANSFER, §§267-309.

(C) ASSIGNMENT OR SALE, §§310-326.

(D) HOLDERS IN DUE COURSE, §§327-384.

IX. PRESENTMENT, DEMAND, NOTICE, AND PROTEST, §§385-424.

X. PAYMENT AND DISCHARGE, §§425-440.

XI. ACTIONS, §§441-543.

I. REQUISITES AND VALIDITY.

(A) FORM AND CONTENTS OF BILLS OF EXCHANGE, DRAFTS, CHECKS, AND ORDERS.

1. Nature and essentials in general.

I. REQUISITES AND VALIDITY.(Cont'd)

2. What law governs.
3. Original parties.
4. Form of order or request.
5. Necessity of words of negotiability.
6. Designation of parties.
7. Designation of amount.
8. Date.
9. Designation of time for payment.
10. Designation of place for payment.
11. Designation of medium of payment.
12. Statement as to consideration.
13. Inland or foreign bills.
14. Sets.
15. Checks as bills of exchange.
16. Sealed instruments.
17. Orders payable on contingency or out of particular fund.
18. Receipts as bills of exchange.
19. Indorsements as bills of exchange.
20. Recitals and provisions affecting character of instrument.
21. Memoranda and collateral agreements affecting character of instrument.
22. Revocation of order.
23. Nature of contract and liability of drawer.
24. Refusal of drawee to accept or pay.
- 24.1. — In general.
25. — Liability of drawee.
26. — Liability of drawer.
27. — Necessity of proceeding against drawee to charge drawer.

(B) FORM AND CONTENTS OF PROMISSORY NOTES AND DUEBILLS.

28. Nature and essentials in general.
29. What law governs.
30. Form of promise.
31. Necessity of words of negotiability.
32. Designation of parties.
33. Designation of amount.
34. Date.
35. Designation of time for payment.
36. — In general.
37. — Installments.
38. Designation of place for payment.
39. Designation of medium of payment.
40. Statement as to consideration.

56. BILLS AND NOTES

I. REQUISITES AND VALIDITY.(Cont'd)

41. Duebills or other acknowledgments of indebtedness.
42. Certificates of deposit.
43. Sealed instruments.
44. Instruments payable on contingency or out of particular fund.
45. Instruments payable after death of maker.
46. Recitals and provisions affecting character of instrument.
47. Memoranda and collateral agreements affecting character of instrument.
48. Nature of contract and liability of maker.
- 48.1. — In general.
49. — Accommodation maker.
50. — Unauthorized or fraudulent diversion.
51. — Estoppel to deny competency or rights of payee.
52. — Discharge of maker.
53. Liability of maker for damages on non-payment.

(C) EXECUTION AND DELIVERY.

54. Signature.
55. Attestation.
56. Affixing revenue stamps.
57. Signature added after delivery.
58. Partial execution and failure of others to sign.
59. Persons liable whose names are not subscribed or inserted.
60. Execution in blank.
61. Ratification of instrument defectively executed.
62. Delivery.
- 62.1. — In general.
63. — Necessity and sufficiency in general.
64. — Conditional delivery.
65. — Operation and effect.

(D) ACCEPTANCE.

66. Necessity.
67. What law governs.
68. Written acceptance.
69. Oral acceptance.
70. Implied acceptance.
71. Acceptance for honor or supra protest.
72. Revocation of acceptance.

I. REQUISITES AND VALIDITY.(Cont'd)

73. Nature of contract and liability of acceptor.
74. — In general.
75. — Accommodation acceptor.
76. — Unauthorized or fraudulent diversion.
77. — Admission of funds and authority to draw.
78. — Estoppel to deny genuineness of instrument or signatures.
79. — Reliance on presumptive title of holder.
80. — Acceptance for honor or supra protest.
81. — Discharge of acceptor.
82. Acceptance of orders made payable on contingency or out of particular fund.
83. Conditional or qualified acceptance.
84. Promise to accept.
- 84.1. — In general.
85. — Requisites and validity.
86. — Construction and operation in general.
87. — Effect as absolute acceptance.
88. — Performance or breach.
89. — Actions for breach.

(E) CONSIDERATION.

90. Necessity.
91. Sufficiency.
92. — In general.
 - (1). In general.
 - (2). Waiver of rights and surrender or release of lien or security.
 - (3). Forbearance.
 - (4). Adequacy.
 - (5). Indebtedness of third person.
 - (6). Contract to convey or deliver.
 - (7). Services rendered gratuitously.
 - (8). Agreements to contribute.
 - (9). Memorandum of payment.
 - (10). Mutual promises.
93. — For acceptance.
94. — Pre-existing indebtedness or liability.
 - (1). In general.
 - (2). Settlement of claims in general.
 - (3). Settlement of claims in litigation.

56. BILLS AND NOTES

I. REQUISITES AND VALIDITY.(Cont'd)

- 95. — Exchange of paper.
- 96. Accommodation paper.
- 97. Failure of consideration.
 - (1). In general.
 - (2). Partial failure.
 - (3). Rights or interests subsequently proving valueless.
- 98. Estoppel to deny consideration or allege failure of consideration.

(F) VALIDITY.

- 99. What law governs.
- 100. Validity of assent.
- 101. — In general.
- 102. — Mistake.
- 103. — Fraud and misrepresentation.
 - (1). In general.
 - (2). Fraudulent representations as to consideration.
- 104. — Duress.
- 105. — Undue influence.
- 106. Legality of object or of consideration.
- 107. Notes given for patent rights.
- 108. Legality of particular provisions.
- 108.1. — In general.
- 109. — As to payment or default.
- 110. — As to attorney fees and costs.
- 111. Effect of invalidity.
- 111.1. — In general.
- 112. — Partial invalidity.
- 113. Estoppel or waiver as to defects or objections.
- 114. Ratification or recognition of validity.
- 115. Right to contest validity.

II. CONSTRUCTION AND OPERATION.

- 116. General rules of construction.
- 117. What law governs.
- 118. Parties.
- 119. — In general.
- 120. — Joint or several.
- 121. — Principals and sureties or guarantors.
- 122. — Accommodation parties.
- 123. — Representative or fiduciary capacity.
 - (1). In general.

II. CONSTRUCTION AND OPERATION.(Cont'd)

- (2). Signature as or by agent of named principal.
 - (3). Instruments made to persons in representative capacity.
- 124. Amount.
- 125. Interest.
- 126. Attorney fees and costs.
- 127. Place and time of execution.
- 128. Place of payment.
- 129. Time of maturity.
 - (1). In general.
 - (2). Maturity on nonpayment of installment of interest or principal.
 - (3). Instruments payable on demand.
- 130. Days of grace.
- 131. Mode and form of payment.
- 132. Conditions.
- 133. Marginal memoranda and figures.
- 134. Collateral agreements.
- 135. Collateral securities.

III. MODIFICATION.

- 136. In general.

IV. EXTENSION AND RENEWAL.

- 137. Extension and agreements to extend.
 - (1). In general.
 - (2). Taking interest in advance or after maturity.
- 138. Renewal, and agreements to renew.
- 139. Consideration for extension or renewal.
 - (1). In general.
 - (2). Payment of or promise to pay interest as consideration for extension.
 - (3). For renewal.
- 140. Operation and effect of extension or renewal.
- 141. Renewal bills and notes.
- 142. Redelivery or surrender of instrument to maker or acceptor.

V. RESCISSION.

- 143. In general.

VI. NEGOTIABILITY.

- 144. Negotiability in general.

56. BILLS AND NOTES

VI. NEGOTIABILITY.(Cont'd)

- 145. What law governs.
- 146. Statutory provisions.
- 147. Words of negotiability.
- 148. Nature and form of instrument.
- 148.1. — In general.
- 149. — Bills of exchange, checks, and drafts.
- 150. — Promissory notes.
 - (1). In general.
 - (2). Place of payment or discount.
- 151. — Particular kinds or forms of orders, certificates, or warrants.
- 152. — Instruments payable from particular fund.
- 153. Certainty as to parties.
- 154. Certainty as to place of payment.
- 155. Certainty as to time of payment.
- 156. Certainty as to amount payable.
- 157. — In general.
- 158. — Interest.
- 159. — Exchange.
- 160. — Attorney fees and costs.
- 161. — Taxes.
- 162. Medium of payment.
- 163. Statement of consideration.
- 164. Conditions and restrictions in instrument.
- 165. References to collateral agreements.
- 166. Recitals and provisions as to collateral securities.
- 167. Instruments given as collateral security.
- 168. Recitals and provisions as to conditional sales.
- 169. Effect, as to negotiability, of indorsement or other transfer.
- 169.1. — In general.
- 170. — Particular form of indorsement or mode of transfer.
- 171. — Conditional and restrictive indorsements.
- 172. Effect of death of payee or indorser.
- 173. Effect of maturity, dishonor, or protest.
- 174. Effect of payment.
- 175. Effect of bar by limitation.

VII. TRANSFER.

(A) BY INDORSEMENT.

- 176. Nature and essentials in general.

VII. TRANSFER.(Cont'd)

- 178. Indorsement as inception of instrument.
- 178.1. — In general.
- 179. — Notes payable to order of maker.
- 180. What law governs.
- 181. Statutory provisions.
- 182. Authority to indorse.
- 183. Formal requisites.
- 184. Necessity of delivery.
- 185. Notice of transfer.
- 186. Consideration.
- 187. Indorsement in full.
- 188. Indorsement in blank.
- 189. Special indorsement.
- 190. Conditional and restrictive indorsements.
- 191. Anomalous indorsements.
- 192. Agreements to indorse.
- 193. Striking out indorsements.
- 194. Operation and effect as to title.
- 195. — In general.
- 196. — Joint or several parties.
- 197. — Representative or fiduciary character of parties.
- 198. — Particular forms of indorsement.
- 199. — Conditional and restrictive indorsements.
- 200. — Indorsement for collection.
- 201. — Forged or altered indorsement.
- 202. — Reindorsement or redelivery to indorser.

(B) WITHOUT INDORSEMENT.

- 203. Nature of right to transfer.
- 204. What law governs.
- 205. Statutory provisions.
- 206. Authority to transfer.
- 207. Consideration.
- 208. Transfer by delivery.
- 209. — In general.
- 210. — Instruments payable to bearer.
- 211. — Instruments indorsed in blank.
- 212. — Nonnegotiable bills or notes.
- 213. Assignment.
- 214. — In general.
- 215. — Indorsement of nonnegotiable bills or notes.
- 216. Sale.
- 217. Agreements to transfer.

56. BILLS AND NOTES

VII. TRANSFER.(Cont'd)

- 218. Transfer by operation of law.
- 219. Operation and effect as to title.
- 220. — In general.
- 221. — Transfer for collection.
- 222. — Redelivery or reassignment.

VIII. RIGHTS AND LIABILITIES ON INDORSEMENT OR TRANSFER.

(A) BEFORE DELIVERY TO OR TRANSFER BY PAYEE.

- 223. Nature and construction of contract in general.
- 224. What law governs.
- 225. Statutory provisions.
- 226. Consideration.
- 227. Agreements to indorse.
- 228. Revocation of indorsement.
- 229. Parties to indorsement.
- 230. — In general.
- 231. — Joint or several.
- 232. — Representative or fiduciary capacity.
- 233. Nature of instrument.
- 233.1. — In general.
- 234. — Notes payable to order of maker.
- 235. — Nonnegotiable instruments.
- 236. Accommodation indorsement.
- 237. — In general.
- 238. — Accommodation or identification of payee.
- 239. Indorsement unauthorized, procured by fraud, or forged.
- 240. Nature of liability on indorsement.
- 241. — In general.
- 242. — As original promisor.
- 243. — As indorser.
- 244. — As first or second indorser.
- 245. — As surety.
- 246. — As guarantor.
- 247. Time of indorsement.
- 248. Mode or form of indorsement.
- 249. Order of indorsements.
- 250. Indorsement on condition.
- 251. Diversion to unauthorized purpose.
- 252. Time when liability attaches.
- 253. Order of liability.

VIII. RIGHTS AND LIABILITIES ON INDORSEMENT OR TRANSFER.(Cont'd)

- 254. Necessity, to charge indorser, of proceeding against maker.
- 255. Extent of liability.
- 256. Discharge of indorser.
- 257. Rights of indorser.
- 258. — In general.
- 259. — Resort to maker or collateral securities.
- 260. — As against maker.
- 261. — Indemnity given to indorser.
- 262. — Indorsement for accommodation or identification of payee.
- 263. — As against payee as prior indorser.
- 264. — As against other indorsers.
- 265. — Amount or extent of indemnity.
- 266. Contribution.

(B) INDORSEMENT FOR TRANSFER.

- 267. Nature and construction of contract in general.
- 268. What law governs.
- 269. Agreements to indorse.
- 270. Modification or rescission of contract.
- 271. Parties to indorsement.
- 271.1. — In general.
- 272. — Joint or several.
- 273. — Representative or fiduciary capacity.
- 274. Nature and validity of instrument.
- 274.1. — In general.
- 275. — Nonnegotiable instruments.
- 276. — Accommodation paper.
- 277. — Void instruments.
- 278. — Instruments paid and reissued.
- 279. Indorsement unauthorized, procured by fraud, or forged.
- 280. Nature of liability on indorsement in general.
- 280.1. — In general.
- 281. — As indorser.
- 282. — As original promisor.
- 283. — As surety.
- 284. — As guarantor.
- 285. Time of indorsement.
- 286. Mode, form, or purpose of indorsement.
- 287. — In general.
- 288. — Indorsement in blank.

56. BILLS AND NOTES

VIII. RIGHTS AND LIABILITIES ON INDORSEMENT OR TRANSFER.(Cont'd)

- 289. — Special indorsement.
- 290. — Conditional or restrictive indorsement.
- 291. — Indorsement for purpose of transfer merely.
- 292. — Indorsement for collection.
- 293. — Indorsement without recourse.
- 294. — Anomalous indorsements.
- 295. — Indorsement with guaranty.
- 296. Express and implied warranties.
- 297. Time when liability attaches.
- 298. Order of liability.
- 299. Necessity, to charge indorser, of proceeding against maker.
- 300. Extent of liability.
- 301. Discharge of indorser.
- 302. Liabilities of indorser to maker.
- 303. Rights of indorser.
- 304. — In general.
- 305. — As to collateral securities.
- 306. — As against original parties.
- 307. — Amount or extent of indemnity.
- 308. Rights and liabilities as between indorsers in general.
- 309. Contribution.

(C) ASSIGNMENT OR SALE.

- 310. Nature and construction of contract in general.
- 311. What law governs.
- 312. Statutory provisions.
- 313. Parties to transaction, and rights of assignee or purchaser.
- 314. Equities and defenses against assignee.
- 315. — In general.
- 316. — Payment of consideration.
- 317. — Transfer after maturity.
- 318. — Defenses existing before transfer or notice thereof.
- 319. — Defenses arising after transfer or notice thereof.
- 320. — Set-offs existing before transfer or notice.
- 321. — Set-offs arising after transfer or notice.
- 322. — Parties affected by defense or set-off.

VIII. RIGHTS AND LIABILITIES ON INDORSEMENT OR TRANSFER.(Cont'd)

- 323. Recourse by assignee to assignor.
- 324. — In general.
- 325. — Necessity of proceeding against maker.
- 326. Express and implied warranties.

(D) HOLDERS IN DUE COURSE.

- 327. Nature and grounds of protection.
- 328. What law governs.
- 329. Statutory provisions.
- 330. Mode or form of transfer.
- 331. Actual notice.
- 332. — In general.
- 333. — Implied from relation between parties.
- 334. — Time of notice.
- 335. — Operation and effect.
- 336. Constructive notice, and facts putting on inquiry.
- 336.1. — In general.
- 337. — Good faith in general.
- 338. — Due course of business.
- 338.5. — Payee as holder in due course.
- 339. — Duty to make inquiry in general.
- 340. — Character or capacity of persons dealing with paper.
- 341. — Relation to instrument of persons dealing therewith.
- 342. — Matters apparent from instrument.
- 343. — Knowledge as to consideration or collateral agreements or securities.
- 344. — Knowledge of default as to interest or accompanying instruments.
- 345. — Circumstances attending transfer.
- 346. — Operation and effect.
- 347. Taking after maturity.
- 347.1. — In general.
- 348. — Time of taking.
- 349. — Effect as notice or as putting on inquiry.
- 350. — Title and rights acquired.
- 351. — Defenses as against purchasers after maturity.
- 352. Consideration.
- 352.1. — In general.
- 353. — Payment of value.
- 354. — Payment of less than face value.

56. BILLS AND NOTES

VIII. RIGHTS AND LIABILITIES ON INDORSEMENT OR TRANSFER.(Cont'd)

- 355. — Usurious consideration.
- 356. — Crediting proceeds.
- 357. Taking as collateral security in general.
- 358. Taking as collateral security for pre-existing debt.
- 359. Taking in payment of pre-existing debt.
- 360. Renewal of bills or notes.
- 361. Knowledge of or notice to immediate indorser as to defenses.
- 362. Transferees from holders in due course.
- 363. Title and rights acquired by holders in due course.
- 364. Defenses against holders in due course.
- 365. — In general.
 - (1). In general.
 - (2). Estoppel to set up defense.
- 366. — Incapacity or want of authority of parties in general.
- 367. — Powers of corporations or corporate officers.
- 368. — Defective execution.
- 369. — Conditions or collateral agreements.
- 370. — Want or failure of consideration in general.
- 371. — Accommodation paper.
- 372. — Mistake.
- 373. — Fraud in inception.
- 374. — Duress.
- 375. — Illegality in general.
- 376. — Usury.
- 377. — Forgery.
- 378. — Alteration.
- 379. — Accommodation indorsement.
- 380. — Fraudulent diversion.
- 381. — Fraudulent or forged indorsement.
- 382. — Lost or stolen instruments.
- 383. — Payment or discharge.
- 384. — Set-off or counterclaim.

IX. PRESENTMENT, DEMAND, NOTICE, AND PROTEST.

- 385. Nature and grounds of requirement of diligence of holder.
- 386. What law governs.
- 387. Statutory provisions.
- 388. Presentment for acceptance.

IX. PRESENTMENT, DEMAND, NOTICE, AND PROTEST.(Cont'd)

- 388.1. — In general.
- 389. — Necessity.
- 390. — Diligence in general.
- 391. — Sufficiency.
- 392. — Notice of nonacceptance.
- 393. Necessity of demand for payment and notice of nonpayment.
- 394. — In general.
- 395. — Nature of instrument or obligation.
- 396. — Condition precedent to liability of indorser.
- 397. — Excuses for failure to make demand or give notice.
- 398. — Effect of failure to make demand or give notice.
- 399. Sufficiency of presentment for payment and demand.
- 399.1. — In general.
- 400. — Diligence in general.
- 401. — Persons who may make.
- 402. — Persons on whom to be made.
- 403. — Place.
- 404. — Time.
 - (1). In general.
 - (2). Bill of exchange.
- 405. — Form and mode.
- 406. — Excuses for delay.
- 407. — Effect of delay.
- 408. Protest and certificate thereof.
- 408.1. — In general.
- 409. — Requisites and sufficiency.
- 410. — Certificate as evidence.
- 411. Sufficiency of notice of nonpayment and of protest.
- 411.1. — In general.
- 412. — Diligence in general.
- 413. — Persons who may give.
- 414. — Persons to whom to be given.
- 415. — Place.
- 416. — Time.
- 417. — Excuses for delay.
- 418. — Effect of delay.
- 419. — Form and requisites.
- 420. — Mode of giving or service in general.
- 421. — Notice by mail.

56. BILLS AND NOTES

IX. PRESENTMENT, DEMAND, NOTICE, AND PROTEST.(Cont'd)

- 422. Waiver of presentment, protest, or notice.
 - (1). In general.
 - (2). By waiver in indorsement.
 - (3). By indorsement of instrument containing waiver.
 - (4). By separate agreement.
- 423. New promise or waiver after discharge.
- 424. Wrongful protest.

X. PAYMENT AND DISCHARGE.

- 425. Nature and modes of discharge in general.
- 426. Persons by whom payment may be made and effect.
- 427. Persons to whom payment may be made.
 - (5). In general.
 - (1). To actual holder in general.
 - (2). To another than actual holder in general.
 - (3). Notice of transfer.
 - (4). Payment without notice of assignment.
 - (5). Payee as agent of holder.
- 428. Mode and sufficiency of payment.
- 429. — In general.
- 430. — New bills or notes.
- 431. — Checks, drafts, and certificates of deposit.
- 432. — Property or services.
- 433. Indorsement of payments.
- 434. Recovery of payments.
- 435. Satisfaction otherwise than by payment.
- 436. Discharge.
- 437. — In general.
- 438. — Cancellation or surrender of instrument.
- 439. — Payment or satisfaction by other parties.
- 440. Rights of parties on payment or discharge.

XI. ACTIONS.

- 441. Right of action.
 - 441.1. — In general.
- 442. — Nature and grounds in general.
- 443. — Title to sustain action.
 - (1). In general.

XI. ACTIONS.(Cont'd)

- (2). Payees.
- (3). Indorsees and assignees in general.
- (4). Indorsees and assignees for collection.
- 444. — Conditions precedent.
- 445. — Time of accrual.
- 446. — Option of holder.
- 447. — On original consideration.
- 448. Nature and form of remedy.
- 449. What law governs.
- 450. Defenses.
- 451. — In general.
 - (1). In general.
 - (2). Facts necessary to establish defense.
- 452. — Particular grounds.
 - (1). In general.
 - (2). Want of title or interest.
 - (3). Want or failure of consideration.
 - (4). Fraud.
- 453. — Persons as to or against whom defenses are available.
- 454. Jurisdiction and venue.
- 455. Parties plaintiff.
- 456. — In general.
- 457. — Joinder.
- 458. Parties defendant.
- 459. — In general.
- 460. — Joinder.
- 461. Declaration, complaint, or petition.
 - 461.1. — In general.
- 462. — Form and requisites in general.
 - (1). In general.
 - (2). Acceptance.
 - (3). Inability to recover of maker.
- 463. — Execution and delivery of instrument.
- 464. — Description of instrument.
- 465. — Consideration.
- 466. — Nature of contract.
- 467. — Transfer and ownership.
 - (5). In general.
 - (1). Necessity of alleging indorsement, assignment, and ownership.
 - (2). Sufficiency of allegations as to indorsement, assignment, and ownership.

56. BILLS AND NOTES

XI. ACTIONS.(Cont'd)

- (3). Bona fide purchase.
- 468. — Maturity and performance of conditions.
- 469. — Presentment, demand, protest, and notice.
- 470. — Nonpayment.
- 471. — Amount due, interest, and attorney fees.
- 472. Plea, answer, or affidavit of defense.
- 472.1. — In general.
- 473. — Form and requisites in general.
- 474. — Traverses or denials and admissions in general.
- 475. — Execution and delivery of instrument.
- 476. — Want or failure of consideration.
 - (1). In general.
 - (2). Failure of consideration.
- 477. — Mistake, fraud, or duress.
- 478. — Illegality.
- 479. — Fraudulent diversion.
- 480. — Transfer and ownership in general.
- 481. — Good faith and payment of value.
- 482. — Presentment, demand, protest, and notice.
- 483. — Extension of time and agreement not to sue.
- 484. — Payment and discharge.
- 485. — Verification.
- 486. Replication or reply and subsequent pleadings.
- 487. Amended and supplemental pleadings.
- 488. Setting out, annexing, filing, or production of instrument, and profert and oyer.
- 489. Issues, proof, and variance.
 - (1). In general.
 - (2). Evidence admissible under declaration or complaint.
 - (3). Evidence admissible under plea or answer in general.
 - (4). Evidence admissible under plea of non est factum.
 - (5). Evidence admissible under general issue.
 - (6). Matters that must be proved.
 - (7). Variance.
- 490. Presumptions and burden of proof.
- 491. — In general.

XI. ACTIONS.(Cont'd)

- 492. — Execution, delivery, and identity of instruments.
- 493. — Consideration.
 - (.5). In general.
 - (1). Presumptions as to consideration in general.
 - (2). Presumptions as to consideration and burden of proving consideration.
 - (3). Presumptions as to consideration and burden of proving want or failure.
 - (4). Rebutting presumptions.
- 494. — Validity.
- 495. — Nature of liability.
- 496. — Transfer and ownership in general.
 - (1). In general.
 - (2). Possession.
 - (3). Indorsement.
- 497. — Good faith and payment of value.
 - (.5). In general.
 - (1). Presumptions as to bona fides in general.
 - (2). Burden of proof as to bona fides in general.
 - (3). Consideration for indorsement or transfer.
 - (4). Legality of instrument or consideration.
 - (5). Fraud in inception or transfer.
- 498. — Presentment, demand, protest, and notice.
- 499. — Payment and discharge.
- 500. Admissibility of evidence.
- 501. — In general.
- 502. — Execution, delivery, and identity of instrument.
- 503. — Consideration.
- 504. — Nature of liability, and relations of parties to instrument and to each other.
- 505. — Mistake, fraud, or duress.
- 506. — Legality of object and of consideration.
- 507. — Fraudulent diversion.
- 508. — Transfer and ownership in general.
- 509. — Good faith and payment of value.
- 510. — Presentment, demand, protest, and notice.

56. BILLS AND NOTES

XI. ACTIONS.(Cont'd)

- 511. — Payment and discharge.
- 512. — Competency of parties or intermediate holders as witnesses.
- 513. — In actions on acceptances, drafts, or orders.
- 514. — In actions on contracts of indorsement.
- 515. Weight and sufficiency of evidence.
- 516. — In general.
- 517. — Execution, delivery, and identity of instrument.
- 518. — Consideration.
 - (1). In general.
 - (2). Accommodation obligation.
- 519. — Nature and extent of liability.
- 520. — Mistake, fraud, or duress.
- 521. — Legality of object and of consideration.
- 522. — Fraudulent diversion.
- 523. — Transfer and ownership in general.
- 524. — Possession as evidence of ownership.
- 525. — Good faith and payment of value.
- 526. — Presentment, demand, protest, and notice.
- 527. — Payment and discharge.
 - (1). In general.
 - (2). Mode of payment.
- 528. Amount of recovery.
- 529. — In general.
- 530. — Interest.
- 531. — Exchange.
- 532. — Costs of protest.
- 533. — Damages for dishonor.
- 534. — Attorney fees.
- 535. Trial.
- 536. — In general.
- 537. — Questions for jury.
 - (1). In general.
 - (2). Execution and delivery.
 - (3). Consideration.
 - (4). Validity.
 - (5). Title and ownership of instrument.
 - (6). Good faith and payment of value.
 - (7). Presentment, demand, protest, and notice.
 - (8). Payment and discharge.
- 538. — Instructions.

XI. ACTIONS.(Cont'd)

- (1). In general.
- (2). Ownership and transfer of note.
- (3). Consideration.
- (4). Good faith of holder.
- (5). Execution.
- (6). Demand and notice.
- (7). Payment and discharge.
- (8). Fraud.
- 539. — Verdict and findings.
- 540. Judgment.
- 541. Execution.
- 542. Appeal and error.
- 543. Costs.

58. BONDS

SUBJECTS INCLUDED

Instruments in writing under seal whereby the maker binds himself to pay a certain sum of money absolutely or conditionally

Their nature, requisites, validity, incidents, construction, operation and effect in general

Negotiability, transfer and rights of transferees

Actions on bonds

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Other contracts or transactions, bonds incident to, as bonds for title to or conveyance of real property, see **VENDOR AND PURCHASER** and other specific topics

Particular classes of makers, bonds by, see **INFANTS, MENTAL HEALTH** and other specific topics

— Corporations, see **CORPORATIONS AND BUSINESS ORGANIZATIONS**

— Governments, see **STATES, UNITED STATES**

— Political or municipal bodies see **COUNTIES, MUNICIPAL CORPORATIONS** and other specific topics

Particular types of bonds—

58. BONDS

Bottomry and respondentia, see SHIP-
PING

Fiduciary duties, bonds for performance
of, see EXECUTORS AND ADMINIS-
TRATORS, GUARDIAN AND WARD,
TRUSTS and other specific topics

Indemnity, see INDEMNITY

Mortgage bonds, see MORTGAGES
AND DEEDS OF TRUST

Official duties, bonds for performance of,
see PUBLIC EMPLOYMENT, SHERIFFS
AND CONSTABLES and other specific
topics

Particular remedies or legal proceedings,
bonds required or incident to, see AR-
REST, BAIL, CREDITORS' REMEDIES,
and other specific topics

Promissory notes under seal, see BILLS AND
NOTES

Subrogation to rights of obligees, see SUB-
ROGATION

Sureties' distinct rights and liabilities, see
PRINCIPAL AND SURETY

I. REQUISITES AND VALIDITY, ¶1-47.

II. CONSTRUCTION AND OPERATION, ¶48-73.

III. NEGOTIABILITY AND TRANSFER, ¶74-102.

IV. PERFORMANCE OR BREACH OF CONDITION, ¶103-113.

V. ACTIONS, ¶114-148.

I. REQUISITES AND VALIDITY.

1. Nature and essentials in general.
2. What law governs.
3. Parties.
6. Form and contents.
12. Execution in general.
13. Signature.
14. Seal.
15. Attestation.
16. Acknowledgment.
17. Affixing revenue stamps.
18. Recording and registration.
19. Partial execution, and failure of others to
sign.
20. Execution in blank.
21. Ratification of instrument defectively exe-
cuted.
22. Delivery.

I. REQUISITES AND VALIDITY.(Cont'd)

26. Consideration.
31. Statutory bonds and bonds taken by offi-
cers.
37. Validity of assent.
42. Legality of condition or of consideration.
43. Legality of particular provisions.
44. Effect of invalidity.

II. CONSTRUCTION AND OPERATION.

48. General rules of construction.
49. What law governs.
50. Common-law or statutory bonds.
51. Parties.
56. Amount of obligation or penalty.
57. Scope and effect of conditions.
61. Commencement and duration of liability.
62. Amount or extent of liability.
63. Interest.
64. Place of performance or payment.
65. Time of performance or payment.
66. Marginal memoranda and indorsements.
67. Collateral agreements.
68. Redelivery or surrender of bond to obli-
gor.
69. Agreements to cancel or rescind.
70. Cancellation for invalidity.

III. NEGOTIABILITY AND TRANSFER.

74. Negotiability in general.
75. What law governs.
76. Statutory provisions.
77. Words of negotiability.
78. Nature and form of instrument.
79. Interest coupons.
80. Effect of matters subsequent to making of
instrument.
81. Transfer by indorsement.
82. Transfer without indorsement in general.
83. Assignment.
84. Sale.
85. Operation and effect of transfer as to
title.
86. Rights and liabilities on indorsement or
other transfer in general.
87. Rights and liabilities on assignment or
sale.
92. Bona fide purchasers.

58. BONDS

IV. PERFORMANCE OR BREACH OF CONDITION.

- 103. Obligation to perform in general.
- 105. Sufficiency of performance of condition.
- 106. Excuses for nonperformance.
- 107. Acceptance of performance, and waiver of defects or objections.
- 108. Discharge from performance.
- 109. Breach of condition.
- 113. Payment.

V. ACTIONS.

- 114. Right of action.
- 119. Nature and form of remedy.
- 120. Defenses.
- 121. Jurisdiction and venue.
- 122. Parties.
- 123. Pleading.
- 129. Evidence.
- 133. Damages and amount of recovery.
- 139. Trial.
- 144. Judgment.
- 147. Execution.
- 148. Costs.

59. BOUNDARIES

SUBJECTS INCLUDED

Lines dividing contiguous lands, as described in conveyances, surveys and the like or indicated by marks of separation, natural and artificial

Ascertainment and establishment of such lines

Agreements between adjoining proprietors

Legal proceedings relating thereto

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Adjoining landowners' mutual rights, duties and liabilities in general, see **ADJOINING LANDOWNERS**

Adverse possession, effect of, see **ADVERSE POSSESSION**

Conveyances, description of property covered, see **DEEDS, MORTGAGES AND DEEDS OF TRUST**, and other specific topics

Fences, see **FENCES**

Indian reservations, see **INDIANS** ¶158

Party walls, see **PARTY WALLS**

Public lands, government surveys, see **PUBLIC LANDS**

Rights and liabilities of owners of land bounded by—

Highways, see **HIGHWAYS**

Water, see **WATER LAW**

States and their political subdivisions, boundaries of, see **STATES, COUNTIES, EDUCATION, MUNICIPAL CORPORATIONS, TOWNS**

I. DESCRIPTION, ¶1-25.

II. EVIDENCE, ASCERTAINMENT, AND ESTABLISHMENT, ¶26-56.

I. DESCRIPTION.

1. General rules of construction.
2. Particular words or terms.
3. Relative importance of conflicting elements.
 - (1). In general.
 - (2). Control of elements consistent with intention.
 - (3). Control of natural objects and monuments over other elements in general.
 - (4). Control of water courses, highways, and fences over other elements.
 - (5). Control of metes and bounds or courses and distances over other elements.
 - (6). Control of lines marked or surveyed over other elements.
 - (7). Control of calls for adjoining over other elements.
 - (8). Control of maps, plats, and field notes over other elements.
 - (9). Control of quantity over other elements.
4. Natural and permanent objects.
5. Artificial monuments and marks.
6. Courses and distances.

59. BOUNDARIES

I. DESCRIPTION.(Cont'd)

7. Location of corners.
8. Location of lines.
9. Designation, quantity, and location of land.
10. Maps, plats, and field notes.
11. Adjoining or adjacent lands.
12. Waters and water courses.
13. — In general.
14. — Construction of language of description.
17. — Artificial bodies of water.
19. Roads, ways, and public grounds.
- 19.1. — In general.
20. — Public ways.
 - (1). In general.
 - (2). Effect of location, dedication, or occupation.
 - (3). Conveyance by state, municipality, or owner of fee of bed of highway.
 - (4). Beginning point on or call for side of highway.
 - (5). Description with reference to map and quantity intended to be conveyed.
21. — Private ways.
22. — Railroad rights of way.
23. — Public grounds.
24. Priority of grants and deeds.
25. Priority of surveys.

II. EVIDENCE, ASCERTAINMENT, AND ESTABLISHMENT.

26. Nature and form of remedy.
27. Right of action and defenses.
28. Jurisdiction.
29. Venue.
30. Parties.
31. Process and appearance.
32. Pleading.
33. Presumptions and burden of proof.
34. Admissibility of evidence.
35. — In general.
 - (1). In general.
 - (2). Reputation or tradition.
 - (3). Testimony of surveyors and their assistants.
 - (4). Agreement, acquiescence, and practical location by parties.
 - (5). Location of monuments or marks.

II. EVIDENCE, ASCERTAINMENT, AND ESTABLISHMENT.(Cont'd)

36. — Documentary evidence.
 - (1). In general.
 - (2). Deeds and grants.
 - (3). Maps and plats.
 - (4). Former proceedings and adjudications other than actions.
 - (5). Records of surveys and maps.
37. Weight and sufficiency of evidence.
 - (1). In general.
 - (2). Courses and distances.
 - (3). Location of corners, lines, and monuments.
 - (4). Waters and water courses and highways as boundaries.
 - (5). Agreement or recognition as to location of boundary.
38. Trial of issues.
39. — In general.
40. — Questions for jury.
 - (1). In general.
 - (2). Water courses or highways as boundaries.
 - (3). Agreement, recognition, or acquiescence.
41. — Instructions.
42. — Verdict and findings.
43. Judgment and enforcement thereof.
44. Review.
45. Costs.
46. Agreements between parties.
 - (.5). In general.
 - (1). Validity in general.
 - (2). Persons bound by agreement.
 - (3). Conclusiveness and effect of agreement.
 - (4). Cancellation or abrogation of agreement.
 - (5). Arbitration and reference.
47. Estoppel in general.
 - (1). In general.
 - (2). Purchase made in reliance on erroneous statements or acts.
 - (3). Effect of improvements made by party claiming estoppel.
 - (4). Mistake in pointing out boundaries.
 - (5). Acts of third persons.
48. Recognition and acquiescence.

59. BOUNDARIES

II. EVIDENCE, ASCERTAINMENT, AND ESTABLISHMENT.(Cont'd)

- (1). In general.
 - (2). What constitutes acquiescence.
 - (3). Time of acquiescence.
 - (4). Controlling influence of acquiescence.
 - (5). Persons bound by acquiescence.
 - (6). Conclusiveness and effect of acquiescence in general.
 - (7). Effect of mistake, misrepresentation, or ignorance of rights.
 - (8). Acquiescence as evidence of agreement.
49. Practical location by parties.
50. Adjudication by public authorities.
51. — In general.
52. — Appointment and proceedings of commissioners or processioners.
- (1). In general.
 - (2). Review by court.
 - (3). Persons bound by and conclusiveness of determination.
53. Private surveys.
54. Official surveys.
- (1). In general.
 - (2). Method of making surveys.
 - (3). Review.
 - (4). Conclusiveness in general.
 - (5). Acquiescence in survey.
 - (6). Presumption as to correctness and regularity.
 - (7). Fees and expenses.
55. Apportionment of excess or deficiency.
56. Removal of landmarks.

60. BOUNTIES

SUBJECTS INCLUDED

Pecuniary premiums offered by government to all persons enlisting in the public service, or engaging in particular industries, or performing specified services for the public benefit

Acceptance of such offers and performance of conditions thereof or services required

Proceedings to obtain and payment of such bounties

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Bounty lands, see PUBLIC LANDS

Pensions for past services, see PENSIONS

Retirement benefits, see ARMED SERVICES, STATES and other specific topics

Rewards offered for performance of single and special services; see REWARDS

1. Enlistment in army.
2. Destruction of enemy's vessel.
3. Vessels engaged in fisheries.
4. Manufacture of salt.
5. Sinking artesian wells.
6. Planting trees and hedges.
7. Production of sugar.
8. Destruction of wild animals.

63. BRIBERY

SUBJECTS INCLUDED

Offering, promising, giving, accepting or agreeing to accept money, property or other consideration to influence action by a public officer or other action affected with the public interest

Commercial bribery and sports bribery

Nature and extent of criminal responsibility therefor, and grounds of defense

Prosecution and punishment of such acts as public offenses

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Elections, bribery of voters or officers, see ELECTION LAW

Extortion under color of office, see EXTORTION

Impeachment and removal from office for bribery, see PUBLIC EMPLOYMENT and

64. BRIDGES

specific topics relating to particular classes of officers

Lobbying and offenses relating to enactment of statutes, see LOBBYING, STATUTES
⌘1054

1. Nature and elements of offenses.
 - (1). In general.
 - (2). Bribery of jurors and particular classes of officers.
2. Constitutional and statutory provisions.
3. Defenses, and persons liable.
5. Indictment or information.
 - 5.1. — In general.
6. — Requisites and sufficiency.
 - (1). In general.
 - (2). Solicitation of bribe.
 - (3). Nature and value of bribe.
 - (4). Act to be done in consideration of bribe, and authority and opportunity to act.
7. — Issues, proof, and variance.
8. Evidence.
 - 8.1. — In general.
9. — Presumptions and burden of proof.
10. — Admissibility.
11. — Weight and sufficiency.
12. Trial.
 - 12.1. — In general.
13. — Questions for jury.
14. — Instructions.
15. — Verdict and findings.
16. Sentence and punishment.

64. BRIDGES

SUBJECTS INCLUDED

Construction, maintenance, regulation and use of bridges for passage of the public, whether erected under franchises granted therefor or directly by the government, and whether passage be subject to payment of tolls or free

Organization, franchises and powers of bridge companies

Rights, duties and liabilities of such companies or of municipalities in respect to management and operation of their bridges

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Corporations in general, matters applicable to, see CORPORATIONS AND BUSINESS ORGANIZATIONS

Culverts and similar drainage facilities in highways, see HIGHWAYS

Eminent domain, exercise of power of, see EMINENT DOMAIN

Municipalities and similar bodies, power to aid bridge companies and liabilities incurred for that purpose, see MUNICIPAL CORPORATIONS and other specific topics

Navigation, obstruction by bridges, see WATER LAW

Railroad bridges and viaducts, see RAILROADS

Road and bridge districts, see HIGHWAYS

Taxation of bridges, see TAXATION

- I. ESTABLISHMENT, CONSTRUCTION, AND MAINTENANCE, ⌘1-28.
- II. REGULATION AND USE FOR TRAVEL, ⌘29-47.

I. ESTABLISHMENT, CONSTRUCTION, AND MAINTENANCE.

1. Right to establish and maintain in general.
2. What constitutes a bridge.
3. Approaches and appliances as part of bridge.
4. Character of bridge as highway.
5. Constitutional and statutory provisions.
6. Establishment by public authorities.
7. — In general.
8. — Proceedings.
9. — Liabilities for expenses.
 - (1). In general.
 - (2). County aid to townships.
10. — Contribution to expenses.
 - (1). In general.
 - (2). Bridges between counties.
 - (3). Bridges between towns.
11. — Appropriation of money.
12. — Taxes and assessments.
13. Bridge companies and districts.

64. BRIDGES

I. ESTABLISHMENT, CONSTRUCTION, AND MAINTENANCE.(Cont'd)

- 13.1. — In general.
- 14. — Incorporation and organization.
- 15. — Franchises, privileges, and powers.
- 16. — Public aid.
- 17. — Actions.
- 18. Location.
- 19. Right of way and other interests in land.
- 20. Construction.
 - (1). In general.
 - (2). Contracts.
 - (2.1). — In general.
 - (3). — Authority to make contract.
 - (4). — Performance or breach of contract.
 - (5). Inspection, approval, and acceptance.
 - (6). Actions.
- 21. Maintenance and repair.
 - (5). In general.
 - (1). Power and duty to maintain and repair in general.
 - (2). Counties.
 - (3). Towns.
 - (4). Cities and villages.
 - (5). Bridges on or near boundaries of municipalities.
 - (6). Contracts and bonds.
 - (7). Judicial supervision.
 - (8). Interference by third persons.
- 22. Rebuilding after destruction.
- 23. Injuries from construction or maintenance.
- 24. Penalties for failure to construct or maintain.
- 25. Sale and transfer of bridge.
- 26. Acquisition by public authorities.
- 27. Injuries to bridges, approaches, or appliances.
Excludes injury by vessel, see SHIPPING ⇐81(2).
- 28. Offenses incident to construction and maintenance.

II. REGULATION AND USE FOR TRAVEL.

- 29. Power to control and regulate.
- 30. Statutory and municipal regulations.
- 31. Licenses and taxes.
- 32. Mode and purposes of use.
- 33. Tolls.

II. REGULATION AND USE FOR TRAVEL.(Cont'd)

- 34. Liabilities for injuries.
- 35. — In general.
- 36. — Care required of bridge companies and proprietors.
- 37. — Care required and liability of public authorities in general.
- 38. — Statutory provisions as to liabilities of municipalities and officers.
- 39. — Duty and ability to repair.
 - (1). In general.
 - (2). Effect of lack of appropriation or fund for maintenance of bridges.
 - (3). Bridges erected by railroad companies.
 - (4). Bridges on boundaries between municipalities.
 - (5). Liability as between contractor and municipality.
- 40. — Sufficiency and safety of bridge in general.
 - (1). In general.
 - (2). Extraordinary or unusual use or test.
- 41. — Defects or obstructions causing injury.
 - (1). In general.
 - (2). Absence of or defect in guard rails.
- 42. — Notice of defects or obstructions.
- 43. — Proximate cause of injury.
- 44. — Contributory negligence.
 - (1). In general.
 - (2). Extraordinary load.
 - (3). Fast driving.
 - (4). Knowledge of defect or danger.
- 45. — Notice of claim for injury.
- 46. Actions for injuries.
 - (5). In general.
 - (1). Limitations.
See also LIMITATION OF ACTIONS.
 - (2). Parties.
 - (3). Pleading.
 - (4). Presumptions and burden of proof.
 - (5). Admissibility of evidence.
 - (6). Weight and sufficiency of evidence.

65. BROKERS

II. REGULATION AND USE FOR TRAVEL..(Cont'd)

- (7). Damages.
- (8). Questions for jury.
- (8.1). — In general.
- (9). — Absence of or defects in guard rails.
- (10). — Notice of defects.
- (11). — Proximate cause of injury.
- (12). — Contributory negligence.
- (13). Instructions.
- (14). Verdict, findings, and judgment.
- 47. Penalties for violations of regulations.

65. BROKERS

SUBJECTS INCLUDED

Regulation and conduct of the business of negotiating contracts and bargains on behalf of others, without possession or control by the broker, as such, of any property involved

Rights, powers, duties and liabilities of such brokers and their principals or employers, as between themselves and as to others, arising from the relation between them and incidental transactions, such as advances, pledges and the like

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Agency in general, and on particular occasions only, not in course of the agent's ordinary business, see **PRINCIPAL AND AGENT**

Customs brokers, see **CUSTOMS DUTIES**

Exchanges, rights and liabilities of brokers as members, see **EXCHANGES**

Factors, commission merchants and the like, having possession or control of goods for purposes of sale, see **FACTORS**

Particular kinds of business, agency incident to, see **INSURANCE, SHIPPING** and other specific topics

Securities broker-dealers regulation, see **SECURITIES REGULATION**

- I. REGULATION AND CONDUCT OF BUSINESS IN GENERAL, ¶1-5.
- II. EMPLOYMENT, ¶6-11.
- III. AUTHORITY, ¶12-18.
- IV. DUTIES AND LIABILITY TO PRINCIPAL, ¶19-38.
- V. COMPENSATION, ¶39-76.
- VI. LIEN, ¶77.
- VII. ACTIONS FOR COMPENSATION, ¶78-90.
- VIII. RIGHTS, POWERS, AND LIABILITIES AS TO THIRD PERSONS, ¶91-106.

I. REGULATION AND CONDUCT OF BUSINESS IN GENERAL.

- 1. Statutory and municipal regulations.
- 2. Who are brokers.
- 3. Licenses and taxes.
- 4. Conduct of business in general.
- 5. Offenses by brokers.

II. EMPLOYMENT.

- 6. Relation to principal in general.
- 7. Appointment or employment.
- 8. Evidence of agency.
 - (.5). In general.
 - (1). Presumptions and burden of proof.
 - (2). Admissibility.
 - (3). Weight and sufficiency.
- 9. Duration and termination of agency.
- 10. Revocation of agency.
- 11. Breach by principal of contract of employment.

III. AUTHORITY.

- 12. Authority conferred.
- 13. — In general.
- 14. — Purchase or sale of real property.
- 15. — Purchase or sale of goods.
- 16. — Purchase or sale of stocks or other securities, contracts, or options.
- 17. — Loan of money.
- 18. Delegation of authority.

IV. DUTIES AND LIABILITY TO PRINCIPAL.

- 19. Nature of broker's obligation.
- 20. What law governs.
- 21. Mode of execution of agency.
- 22. Skill and care required.

65. BROKERS

IV. DUTIES AND LIABILITY TO PRINCIPAL.(Cont'd)

23. Custody and care of principal's property and funds.
24. Purchases and sales on margin.
 - (1). In general.
 - (2). Call for margins or deposits, and sale or other disposition of property on failure to respond to call.
25. Advances by broker.
26. Title to property purchased or held by broker.
27. Sales on credit.
28. Keeping and rendering accounts.
29. Failure to act.
30. Unauthorized acts.
31. Individual interest of broker.
32. Acting for parties adversely interested.
33. Insolvency of broker.
34. Fraud of broker or his agent.
35. Conversion.
36. Repudiation or ratification of broker's acts.
37. Actions for accounting.
38. Actions for negligence or wrongful acts of broker.
 - (.5). In general.
 - (1). Right of action and defenses.
 - (2). Nature and form of action.
 - (3). Pleading.
 - (4). Evidence.
 - (5). Questions for jury.
 - (6). Instructions.
 - (7). Damages.
 - (8). Set-off and counterclaim.
 - (9). Verdict, findings, and judgment.

V. COMPENSATION.

39. Right to compensation in general.
40. Employment of broker.
41. Ratification of broker's acts.
42. Necessity of license.
43. Necessity of contract in writing.
 - (.5). In general.
 - (1). Under statute of frauds in general.
 - (2). Under special statutes relating to brokers.
 - (3). Sufficiency of writing.

V. COMPENSATION.(Cont'd)

44. Revocation of authority.
45. Abandonment of employment by broker.
46. Transactions effected without aid of broker.
47. Sufficiency of services of broker.
48. — In general.
49. — Performance of contract of employment.
 - (1). In general.
 - (2). Optional or provisional offers.
 - (3). Variance between contract tendered and the one authorized.
50. — Performance of services within time specified.
51. — Bringing parties together.
52. — Completion of negotiations.
53. — Procuring cause of contract or transaction.
54. — Ability and willingness of party procured to perform contract.
55. — Negotiations through other agents.
 - (1). In general.
 - (2). Contract or sale through other agent on different terms or for different price.
 - (3). Exclusive agency.
 - (4). Agreement to pay commissions if sale is made through another agency.
56. — Negotiations direct with principal.
 - (1). In general.
 - (2). Knowledge of broker's agency.
 - (3). Sale in which broker has been instrumental, or to one introduced or procured by broker, or with whom broker has negotiated.
57. — Contract or transaction negotiated different from that authorized.
 - (1). In general.
 - (2). Contract or sale by owner on different terms or for different price.
58. — Invalidity of contract or transaction negotiated.
59. Failure to complete contract or transaction negotiated.
60. — In general.
61. — Defect in principal's title.

65. BROKERS

V. COMPENSATION.(Cont'd)

- (1). In general.
- (2). Nature and effect of defect in title in general.
- (3). Refusal of wife of principal to join in conveyance.
- (4). Broker's knowledge of defect.
62. — Deficiency in quantity of land.
63. — Default or refusal of principal.
 - (1). In general.
 - (2). Provisions in contract of employment or contract of sale as affecting broker's right to commissions.
 - (3). Refusal to complete transaction after offer of other terms.
 - (4). Defect in title of other party.
 - (5). Tender of performance by purchaser.
64. — Default or refusal of party procured by broker.
 - (1). In general.
 - (2). Provisions in contract of employment or contract of sale as affecting broker's right to commissions.
 - (3). Refusal to complete transaction after offer of other terms.
65. Bad faith, fraud, or misconduct of broker.
 - (1). In general.
 - (2). Concealment of or misrepresentation as to price received or paid.
 - (3). Sale for inadequate price or price less than might have been procured.
 - (4). Representing adverse interest.
 - (5). Individual interest.
 - (6). Waiver of fraud or wrongful act.
66. Dividing or pooling commissions.
67. Commissions from both parties.
 - (1). In general.
 - (2). Knowledge of double employment.
68. Rate or amount of compensation.
69. — In general.
70. — Statutory regulation of commissions.
71. — Contracts as to compensation.
72. Reimbursement of advances, expenses, or losses.
73. Persons entitled.

V. COMPENSATION.(Cont'd)

74. Persons liable.
75. Payment.
76. Application of forfeited deposit.

VI. LIEN.

77. In general.

VII. ACTIONS FOR COMPENSATION.

78. Right of action.
79. Nature and form of action.
80. Defenses.
81. Parties.
82. Pleading.
 - (.5). In general.
 - (1). Declaration, complaint, or petition.
 - (2). Pleas or answer and affidavit of defense.
 - (3). Amendments.
 - (4). Issues, proof, and variance.
83. Evidence.
- 83.1. — In general.
84. — Presumptions and burden of proof.
 - (1). In general.
 - (2). Ability and willingness of proposed purchaser.
85. — Admissibility.
 - (1). In general.
 - (2). Evidence as to procuring cause of contract or transaction.
 - (3). Evidence of ability and willingness of party procured to perform.
 - (4). Evidence that sale was made by another.
 - (5). Evidence as to value or price of property subject of agency.
 - (6). Evidence of conversations or declarations.
 - (7). Letters, documents, or books.
 - (8). Evidence as to default or refusal of principal to complete contract.
 - (9). Evidence of bad faith, fraud, or misconduct of broker.
 - (10). Evidence of value of services.
86. — Weight and sufficiency.
 - (1). In general.
 - (2). Revocation of authority.

65. BROKERS

VII. ACTIONS FOR COMPENSATION. (Cont'd)

- (3). Completion of negotiations.
- (4). Procuring cause of contract or transaction.
- (5). Ability or willingness of proposed purchaser to perform.
- (6). Contract or transaction negotiated different from that authorized.
- (7). Bad faith, fraud, or misconduct of broker.
- (8). Amount of compensation.
- 87. Amount of recovery.
- 88. Trial.
 - (5). In general.
 - (1). Questions for jury in general.
 - (2). Questions for jury as to employment of broker, construction of contract, or ratification of acts of broker.
 - (3). Questions for jury as to sufficiency of services of broker.
 - (4). Questions for jury as to failure to complete contract or transaction negotiated.
 - (5). Questions for jury as to bad faith, fraud or misconduct of broker.
 - (6). Questions for jury as to amount or value of services.
 - (7). Instructions in general.
 - (8). Instructions as to burden of proof.
 - (9). Instructions as to employment of broker, ratification of broker's acts, revocation of authority of broker, and abandonment of employment by broker.
 - (10). Instructions as to sufficiency of services of broker.
 - (11). Instructions as to failure to complete contract or transaction negotiated.
 - (12). Instructions as to bad faith, fraud, or misconduct of broker.
 - (13). Instructions as to amount or value of services.
 - (14). Verdict or findings.
- 89. Judgment and execution.

VIII. RIGHTS, POWERS, AND LIABILITIES AS TO THIRD PERSONS.

- 91. Representation of principal in general.

VIII. RIGHTS, POWERS, AND LIABILITIES AS TO THIRD PERSONS. (Cont'd)

- 92. Contracts in general.
- 93. Purchases, sales, and conveyances.
- 94. — In general.
- 95. — Warranties.
- 96. Deposits, collections, and payments.
- 97. Loans and securities.
- 98. Negotiable instruments.
- 99. Undisclosed agency or principal.
- 100. Unauthorized and wrongful acts in general.
- 101. Mistake or negligence of broker.
- 102. Misrepresentation or fraud of broker.
- 103. Repudiation or ratification of broker's acts.
- 104. Estoppel by broker's acts.
- 105. Notice to broker.
- 106. Actions by or against principals or brokers.

67. BURGLARY

SUBJECTS INCLUDED

Breaking and entering buildings or other structures, or attempting to do so, with intent to commit a crime therein

Nature and elements of the crimes and of degrees thereof

Nature and extent of criminal responsibility therefor, and grounds of defense

Prosecution and punishment of such acts as public offenses

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Entering without intent to commit other offense, see TRESPASS, FORCIBLE ENTRY AND DETAINER

I. OFFENSES AND RESPONSIBILITY THEREFOR, ¶1-16.

II. PROSECUTION, ¶17-48.

III. SENTENCE AND PUNISHMENT, ¶49.

67. BURGLARY

I. OFFENSES AND RESPONSIBILITY THEREFOR.

1. Nature and elements of offenses.
2. — In general.
3. — Intent.
4. — Character of building.
5. — Situation of building.
6. — Occupancy of building.
7. — Ownership or possession of building.
8. — Time.
9. — Breaking and entry.
 - (5). In general.
 - (1). What constitutes breaking.
 - (2). What constitutes entry.
 - (3). Breaking without entry, entry without breaking, and breaking after entry.
10. Degrees.
11. Attempts.
12. Possession of burglars' tools.
13. Defenses.
14. — In general.
15. — Consent of owner or occupant of building.
16. Persons liable.

II. PROSECUTION.

17. Indictment or information.
18. — In general.
19. — Intent.
20. — Description of building.
21. — Occupancy of building.
22. — Ownership or possession of building.
23. — Description and ownership of property in building or stolen from building.
24. — Time.
25. — Breaking and entry.
26. — Attempts.
27. — Possession of burglars' tools.
28. — Issues, proof, and variance.
 - (1). In general.
 - (2). Intent.
 - (3). Breaking and entry.
 - (4). Time of committing offense.
 - (5). Description of building.
 - (6). Ownership, occupancy, or possession of building.

II. PROSECUTION.(Cont'd)

- (7). Value, description, and ownership of property stolen.
29. Presumptions and burden of proof.
30. Admissibility of evidence.
31. — In general.
32. — Intent.
33. — Description, occupancy, and ownership or possession of building.
34. — Identity and ownership of property in building or stolen from building.
35. — Identity, presence, and acts of accused.
36. — Incriminating circumstances in general.
37. — Possession by accused of burglars' tools.
38. — Possession by accused of property stolen.
39. — Matters of defense.
40. Weight and sufficiency of evidence.
41. — In general.
 - (1). In general.
 - (2). Proof of corpus delicti.
 - (3). Intent.
 - (4). Breaking and entry.
 - (5). Time of committing offense.
 - (6). Identity of defendant.
 - (7). Identity and value of stolen property.
 - (8). Character and ownership of premises.
 - (9). Prosecution for possession of burglars' tools.
 - (10). Attempts.
42. — Effect of possession of property stolen.
 - (1). In general.
 - (2). Effect of possession not exclusive.
 - (3). Effect of possession accompanied by other evidence.
 - (4). Explanation of possession.
43. — Effect of possession of burglars' tools.
44. Trial.
- 44.1. — In general.
45. — Questions for jury.
46. — Instructions.
 - (1). In general.
 - (2). Intent.

67. BURGLARY

II. PROSECUTION.(Cont'd)

- (3). Breaking and entry.
- (4). Time of committing offense.
- (5). Character, situation, and occupancy of premises.
- (6). Owner's consent.
- (7). Possession of stolen property.
- (8). Explanation of possession.

47. — Verdict.

III. SENTENCE AND PUNISHMENT.

49. In general.

69. CANCELLATION OF INSTRUMENTS

SUBJECTS INCLUDED

Actions to compel annulment or abrogation of conveyances and contracts or other instruments in writing, and the cancellation or surrender of such instruments

Nature and scope of the remedy in general

What instruments may be so annulled, grounds of such actions and defenses there-to

Jurisdiction to decree such cancellation, sur-render and the like and proceedings there-for, with incidental or alternative relief

Reinstatement of instruments cancelled

Judgments or decrees, and operation and ef-fect thereof

Review of proceedings and costs in actions for such rescission or cancellation

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Actions to rescind sale of personal property, see SALES

Actions to rescind sale of real property, see VENDOR AND PURCHASER

Clouds on titles, actions for removal of, see QUIETING TITLE

Fraud as to creditors, subsequent purchasers, etc., setting aside conveyances for, see FRAUDULENT CONVEYANCES

Reformation of instruments in writing, actions for, see REFORMATION OF INSTRU-MENTS

Substantive law as to grounds of invalidity of conveyances or contracts or as to defenses to actions thereon, such as want of consid-eration, mistake or fraud, see DEEDS, CONTRACTS and other specific topics re-lating to particular classes of conveyances and contracts

I. RIGHT OF ACTION AND DEFENSES,

⌘1-31.

II. PROCEEDINGS AND RELIEF,

⌘32-63.

I. RIGHT OF ACTION AND DEFENSES.

1. Nature and scope of remedy.
2. Right to cancellation.
3. — In general.
4. — Invalidity of instrument.
5. — Unconscionableness, improvidence, or hardship.
6. — Performance or discharge of obli-gation.
7. — Executed contracts.
8. — Injury sustained or anticipated.
9. Adequate remedy at law.
10. — In general.
11. — Pendency of proceedings at law.
12. — Void instruments.
13. — Defense to action on instrument.
14. — Recovery of consideration or of property conveyed.
15. — Recovery of damages.
16. — Insolvency of defendant.
17. Ratification.
18. Estoppel or waiver.
19. Conditions precedent.
20. — In general.
21. — Performance by plaintiff.
22. — Notice and demand.
23. — Restoration of former status of par-ties.
24. — Restoration of consideration or benefit.
 - (1). In general.
 - (2). Consideration for deed or mort-gage.
 - (3). Contracts of sale of land.

70. CARRIERS

I. RIGHT OF ACTION AND DEFENSES.(Cont'd)

- (4). Contracts of exchange of lands.
- 25. Defenses.
- 26. Persons entitled to cancellation.
- 27. — In general.
- 28. — Parties in pari delicto.
- 29. Persons as to whom instruments may be canceled.
- 30. — In general.
- 31. — Bona fide purchasers.

II. PROCEEDINGS AND RELIEF.

- 32. Form of remedy.
- 33. Jurisdiction and venue.
- 34. Limitations and laches.
 - (.5). In general.
 - (1). Laches in general.
 - (2). Accrual of cause of action.
 - (3). Excuse for delay.
 - (4). Statutory limitations.*See also LIMITATION OF ACTIONS.*
- 35. Parties.
 - (1). In general.
 - (2). Parties plaintiff.
 - (3). Parties defendant.
- 36. Pleading.
- 36.1. — In general.
- 37. — Bill, complaint, or petition.
 - (1). In general.
 - (2). Excuse for laches.
 - (3). Setting out and description of instrument.
 - (4). Offer to restore consideration or benefits.
 - (5). Averment of ground of cancellation in general.
 - (6). Fraud in general.
 - (7). Incapacity, duress, and undue influence.
 - (8). Performance or breach of contract.
- 38. — Cross-bill, cross-complaint, or counterclaim for cancellation.
- 39. — Plea or answer.
- 40. — Reply.
- 41. — Demurrer.
- 42. — Amended and supplemental pleadings.
- 43. — Issues, proof, and variance.

II. PROCEEDINGS AND RELIEF.(Cont'd)

- 44. Evidence.
- 44.1. — In general.
- 45. — Presumptions and burden of proof.
- 46. — Admissibility.
- 47. — Weight and sufficiency.
- 48. Trial or hearing.
- 49. — In general.
- 50. — Questions for jury.
- 51. — Instructions.
- 52. — Verdict.
- 53. — Trial and findings by court or referee.
- 54. Relief awarded.
- 55. — In general.
- 56. — Cancellation, surrender, or reconveyance.
- 57. — Alternative, additional, or incidental equitable relief.
- 58. — Recovery of consideration or of damages.
- 59. — Relief to defendant.
- 60. Judgment or decree and enforcement thereof.
- 61. Appeal.
- 62. Costs.
- 63. Effect of cancellation or surrender.

70. CARRIERS

SUBJECTS INCLUDED

Regulation and conduct of the business of transportation of goods and passengers by common or private carriers

Matters incidental thereto, such as the operation of sleeping cars, freight lines, collection and transportation of money by express companies

Rights, duties and liabilities of those engaged in any such business, as to the public and as to individuals, in respect of the persons and property carried

70. CARRIERS

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Commerce, regulation of, see COMMERCE
Communications media, see TELECOMMUNICATIONS
Gas pipe lines, see GAS
Injuries to licensees and trespassers on carriers' property, liabilities for, see RAILROADS, SHIPPING and other specific topics
Interstate Commerce Commission, regulation by, see COMMERCE
Oil pipe lines as easements, see EASEMENTS
Particular classes of carriers in relations or capacities other than transportation of goods and passengers, see CORPORATIONS AND BUSINESS ORGANIZATIONS, AUTOMOBILES, AVIATION, FERRIES, LABOR AND EMPLOYMENT, RAILROADS, URBAN RAILROADS, SHIPPING
Regulation of—
 Air carriers, see AVIATION
 Motor carriers, see AUTOMOBILES
 Railroads, see RAILROADS
Water transportation, see FERRIES, SHIPPING

I. CONTROL AND REGULATION OF COMMON CARRIERS, ¶1-38.

(A) IN GENERAL, ¶1-22.

(B) INTERSTATE AND INTERNATIONAL TRANSPORTATION, ¶23-38.

II. CARRIAGE OF GOODS, ¶39-202.

(A) DELIVERY TO CARRIER, ¶39-45.

(B) DOCUMENTS OF TITLE AND CONTRACTS, ¶46-69.

(C) CUSTODY AND CONTROL OF GOODS, ¶70-76.

(D) TRANSPORTATION AND DELIVERY BY CARRIER, ¶77-94.

(E) DELAY IN TRANSPORTATION OR DELIVERY, ¶95-106.

(F) LOSS OF OR INJURY TO GOODS, ¶107-137.

(G) CARRIER AS WAREHOUSEMAN, ¶138-146.

(H) LIMITATION OF LIABILITY, ¶147-168.

II. CARRIAGE OF GOODS—Cont'd

(I) CONNECTING CARRIERS, ¶169-187.

(J) CHARGES, ¶188-196.5.

(K) LIENS, ¶197.

(L) INJURY TO CARRIER, ¶197.1.

(M) DISCRIMINATION AND OVERCHARGE, ¶198-202.

III. CARRIAGE OF LIVE STOCK, ¶203-231.

IV. CARRIAGE OF PASSENGERS, ¶233-417.

(A) RELATION BETWEEN CARRIER AND PASSENGER, ¶233-248.

(B) FARES, TICKETS, AND SPECIAL CONTRACTS, ¶249-261.

(C) PERFORMANCE OF CONTRACT OF TRANSPORTATION, ¶262-279.

(D) PERSONAL INJURIES, ¶280-322.

(E) CONTRIBUTORY AND COMPARATIVE NEGLIGENCE, ¶323-349.

(F) EJECTION OF PASSENGERS AND INTRUDERS, ¶350-386.

(G) PASSENGERS' EFFECTS; BAGGAGE, ¶387-417.

I. CONTROL AND REGULATION OF COMMON CARRIERS.

(A) IN GENERAL.

1. Power to control and regulate.
2. Constitutional and statutory provisions.
3. Who are carriers.
4. Who are common carriers.
5. Companies, persons, or instrumentalities affected by regulations.
6. Incorporation and organization of companies.
7. Franchises and powers.
8. Licenses and taxes.
9. Reports and statements.
10. Supervision by public officers in general.
11. Conduct of business in general.
12. Charges.

Includes statutory and official regulation only. Contractual and other non-regulatory matters relating to charges for carriage of goods, see II(J).

(.5). In general.

(1). Scope and validity of regulations in general.

(2). Local and through rates.

(3). Long and short haul.

(4). Passenger rates.

70. CARRIERS

I. CONTROL AND REGULATION OF COMMON CARRIERS.(Cont'd)

- (5). Reasonableness in general.
- (6). Consideration of other lines or entire system in determining reasonableness of local rates.
- (7). Evidence as to reasonableness.
- (8). Raising rates lowered for purpose of competition.
- (9). Conditions in grant of franchise and agreements with municipalities.
- (10). Transfers to connecting lines of same company.
- (11). Proceedings before officers and commissions.
- 13. Preferences and discriminations.
 - (1). In general.
 - (2). What constitutes discrimination.
 - (3). Circumstances justifying discrimination.
- 14. Exclusive privileges.
- 15. Connections with and facilities to other carriers.
- 16. Use of carrier's premises.
- 17. Combinations of carriers.
- 18. Proceedings to enforce or to prevent enforcement of regulations.
 - (1). In general.
 - (2). Appeal from orders of officer or board.
 - (3). Actions to enforce or set aside decisions of officer or board.
 - (4). Proceedings to enforce regulations as to connections with or facilities to other carriers.
 - (5). Remedies of persons aggrieved by discriminations.
 - (6). Injunction.
- 19. Damages for violations of regulations.
- 20. Penalties for violations of regulations.
 - (1). In general.
 - (2). Carriage of passengers in general.
 - (3). Discrimination.
 - (4). Overcharge.
 - (5). Failure to furnish cars.
 - (5.5). Carriage of live stock.
 - (6). Connections with and facilities to other carriers.

I. CONTROL AND REGULATION OF COMMON CARRIERS.(Cont'd)

- (7). Amount and computation of penalty.
- (8). Persons entitled to sue.
- (9). Jurisdiction and venue.
- (10). Parties, pleading, and process.
- (11). Evidence.
- (12). Trial and instructions.
- 21. Offenses by carriers or their agents.
 - (1). In general.
 - (2). Discrimination and overcharge.
 - (3). Recommendation of railroad commission.
 - (4). Indictment.
 - (5). Trial.
- 22. Offenses by persons dealing with carriers.
 - (B) INTERSTATE AND INTERNATIONAL TRANSPORTATION.
- 23. Statutory provisions.
- 24. Subjects of regulations.
- 25. Carriage of particular articles.
- 26. Charges in general.
- 27. Special rates.
- 28. Charges for long and short hauls.
- 29. Pooling or dividing freights or earnings.
- 30. Schedules of rates.
- 31. Change of rates.
- 32. Preferences and discriminations.
 - (1). In general.
 - (2). What constitutes preference or discrimination.
 - (2.1). — In general.
 - (2.2). — Distribution of cars.
 - (2.3). — Charges in general.
 - (2.4). — Rebates.
 - (2.5). — Switching and switching charges.
 - (2.6). — Compensating shippers for services.
 - (2.7). — Carriage of live stock.
 - (2.8). — Carriage of passengers.
 - (3). Justification.
- 33. Facilities to connecting lines.
- 34. Judicial remedies and review.
- 35. Contracts in violation of regulations.
- 36. Damages for violations of regulations.
- 37. Penalties for violations of regulations.
 - (1). In general.

70. CARRIERS

I. CONTROL AND REGULATION OF COMMON CARRIERS.(Cont'd)

- (2). Carriage of live stock.
- (2.1). — In general.
- (3). — Connecting carriers.
- (4). — Amount and computation.
- (5). Actions.
- (6). Pleading.
- (7). Evidence.
- (8). Trial.
- 38. Offenses.
 - (1). In general.
 - (2). Carriage of live stock.
 - (3). Discrimination and overcharge.
 - (4). Jurisdiction and venue.
 - (5). Indictment and information.
 - (6). Evidence.
 - (7). Trial.
 - (8). Punishment.

II. CARRIAGE OF GOODS.

(A) DELIVERY TO CARRIER.

- 39. Duty of carrier to receive and transport goods.
- 40. Duty to furnish shipping facilities or means of transportation.
- 41. Acts constituting delivery to and acceptance by carrier.
- 42. Effect of delivery and acceptance.
- 43. Failure or refusal to receive goods.
- 44. Failure or refusal to furnish shipping facilities or means of transportation.
- 45. Actions for refusal to receive or transport goods, or furnish facilities.

(B) DOCUMENTS OF TITLE AND CONTRACTS.

- 46. What law governs.
- 46.5. Duty to give bill of lading or receipt.
- 47. Authority of agents and employees.
 - (1). In general.
 - (2). Authority to make contract to carry goods beyond carrier's line.
- 48. Affixing revenue stamps to bill of lading or receipt.
- 49. Validity of bill of lading or receipt.
- 50. Construction and operation of bill of lading.
- 51. — In general.
- 52. — As a receipt.

II. CARRIAGE OF GOODS.(Cont'd)

- (1). In general.
- (2). Effect as admission in respect to quantity or condition of goods.
- (3). Effect of custom.
- 53. — As a contract.
- 54. Negotiability and transfer of bill of lading.
- 54.1. — In general.
- 55. — Negotiability and assignability.
- 56. — Indorsement or other transfer.
- 57. — Rights of transferee as against carrier.
- 58. — Rights and liabilities of transferee as to persons other than carrier.
- 59. — Bona fide purchasers.
- 60. Receipts for goods.
- 61. Contracts for transportation of goods.
- 61.1. — In general.
- 62. — Requisites and validity.
- 63. — Construction and operation.
- 64. — Performance or breach.
- 65. Contracts for means of transportation.
- 65.1. — In general.
- 66. — Requisites and validity.
- 67. — Performance or breach.
- 68. Modification, merger, or rescission.
- 69. Actions for breach of contract.
 - (1). In general.
 - (2). Pleading.
 - (3). Evidence.
 - (4). Damages.
 - (5). Trial.

(C) CUSTODY AND CONTROL OF GOODS.

- 70. Title to goods.
- 71. Rights of carrier.
- 72. Rights of consignor and consignee in general.
- 73. Change of destination.
- 74. Stoppage in transitu.
- 75. Seizure under legal process.
- 76. Actions by or against carriers in respect of goods.
- (D) TRANSPORTATION AND DELIVERY BY CARRIER.
- 77. Duties as to transportation in general.
- 78. Performance of special contract.
- 79. Route.

70. CARRIERS

II. CARRIAGE OF GOODS.(Cont'd)

80. Destination.
81. Entry in custom house.
82. To whom delivery may be made.
83. Presentation of bill of lading or shipping receipt.
84. Place of delivery.
85. Notice to consignee.
86. Duties of carrier in making delivery.
87. Duties of consignee or owner as to delivery.
88. Acts constituting delivery.
89. Failure or refusal of consignee to receive goods.
90. Delivery of goods shipped C. O. D.
91. Liability for failure or refusal to deliver.
92. Liability as to goods seized under legal process.
93. Liability for misdelivery.
94. Actions for failure to deliver or misdelivery.
 - (.5). In general.
 - (1). Conditions precedent.
 - (1.5). Jurisdiction and venue.
 - (2). Parties and pleading.
 - (3). Evidence.
 - (4). Damages.
 - (5). Trial and judgment.

(E) DELAY IN TRANSPORTATION OR DELIVERY.

95. Diligence required of carrier.
96. Time of transportation and delivery in general; usage or course of business.
97. Perishable goods.
98. Liability of carrier for delay.
99. Excuses for delay by carrier.
100. Demurrage, and liability of consignee or owner for delay.
 - (.5). In general.
 - (1). Right of carrier to charge demurrage, and persons liable.
 - (2). Notice of regulations.
 - (3). Lien for demurrage.
101. Actions for delay.
 - 101.1. — In general.
102. — Nature and form.
103. — Pleading.
104. — Evidence.
105. — Damages.

II. CARRIAGE OF GOODS.(Cont'd)

- (1). In general.
- (2). Special damage dependent on knowledge of circumstances.
- (3). Excessive damages.
106. — Trial.
 - (F) LOSS OF OR INJURY TO GOODS.
107. Care required of carrier in general.
108. Nature of liability as common carrier.
109. What law governs.
110. Character and value of goods.
111. Condition of goods.
112. Nature and validity of contract for transportation.
113. Commencement of liability.
114. Termination of liability.
115. Acts or omissions constituting negligence by carrier or third person in general.
116. Deviation or delay.
117. Mode or means of transportation.
118. Negligence of agents or servants.
119. Act of God, vis major, or inevitable accident.
120. Inherent defects in goods.
121. Contributory negligence of owner.
122. Duties after disaster.
123. Proximate cause of loss or injury.
124. Extent of liability.
 - 124.5. Deduction of unpaid charges.
125. Effect of insurance.
 - 125.5. Claims for damages.
126. Actions for loss or injury.
 - 126.1. — In general.
127. — Nature and form.
128. — Rights of action.
129. — Defenses.
130. — Jurisdiction and venue.
131. — Parties and pleading.
132. — Presumptions and burden of proof.
133. — Admissibility of evidence.
134. — Sufficiency of evidence.
135. — Damages.
136. — Questions for jury.
137. — Instructions, verdict and findings.
 - (G) CARRIER AS WAREHOUSEMAN.
138. Change in nature of liability of carrier in general.

70. CARRIERS

II. CARRIAGE OF GOODS.(Cont'd)

- 139. Goods awaiting transportation.
- 140. Goods awaiting delivery.
- 141. Special contracts for storage.
- 142. Duties of carrier as warehouseman.
- 143. Acts or omissions constituting negligence.
- 144. Proximate cause of loss.
- 145. Extent of liability.
- 146. Actions involving liability as warehouseman.

(H) LIMITATION OF LIABILITY.

- 147. Nature of right to limit liability.
- 148. What law governs.
- 149. Liabilities subject to limitation.
- 149.1. — In general.
- 150. — Negligence or misconduct.
- 151. Mode or form of limitation.
- 151.1. — In general.
- 152. — Notice.
- 153. — Bill of lading or shipping receipt.
- 154. Consideration.
- 155. Assent of consignor or owner.
- 156. Operation and effect of limitation in general.
 - (1). In general.
 - (2). Loss caused by negligence or wrongful act of carrier.
- 157. Limitation to liability of forwarder or warehouseman.
- 158. Limitation of amount of liability.
 - (1). In general.
 - (2). Limitation of amount where value is not disclosed.
 - (3). Loss caused by negligence or wrongful act of carrier.
- 159. Requirement of notice of loss.
 - (1). In general.
 - (2). Limitation of time for presenting claim.
 - (3). Waiver of notice of claim or defects therein.
 - (4). Loss caused by negligence or wrongful act of carrier.
- 160. Limitation of time to sue.
- 161. Limitation of liability as ground of defense.
- 161.1. — In general.
- 162. — Pleading.

II. CARRIAGE OF GOODS.(Cont'd)

- 163. — Presumptions and burden of proof.
- 164. — Admissibility of evidence.
- 165. — Sufficiency of evidence.
- 166. — Questions for jury.
- 167. — Instructions.
- 168. — Verdict and findings.

(I) CONNECTING CARRIERS.

- 169. Who are connecting carriers.
- 170. Duties in general.
- 171. Traffic arrangements between carriers.
- 172. Receipt of goods for transportation beyond carrier's line.
- 173. Special contracts for through transportation.
- 174. Delivery to succeeding carrier.
- 175. Delivery to consignee.
- 176. Delay in transportation or delivery.
- 177. Loss of or injury to goods.
 - (1). In general.
 - (2). Effect of agreements between connecting lines and joint liability.
 - (3). Liability of initial carrier.
 - (4). Liability of intermediate or last carrier.
- 178. Carrier as forwarder or warehouseman.
- 179. Transportation of cars or other vehicles of other carrier.
- 180. Limitation of liability.
 - (1). In general.
 - (2). Power to limit liability to carrier's own line.
 - (3). Operation and effect of limitation.
 - (4). Limitation to liability of forwarder or warehouseman.
 - (5). Right of subsequent carrier to benefit of limitation by first carrier.
 - (6). Effect of violation of contract by carrier.
- 181. Actions against connecting carriers.
- 181.1. — In general.
- 182. — Jurisdiction and venue.
- 183. — Parties.
- 184. — Pleading.
- 185. — Evidence.
 - (.5). In general.

70. CARRIERS

II. CARRIAGE OF GOODS.(Cont'd)

- (1). Presumptions and burden of proof.
- (2). Admissibility of evidence.
- (3). Sufficiency of evidence.

186. — Damages.
187. — Trial.

(J) CHARGES.

188. Rights of carrier in general.
189. Rates of freight.
190. Advances for charges and expenses.
191. Charges for storage.
192. Special contracts as to amount of charges.
- 192.5. Rebates.
193. Rights of connecting carriers.
194. Persons liable for charges.
195. Payment or tender.
196. Actions for charges.
- 196.5. Actions for rebates.

(K) LIENS.

197. Lien for charges.
 - (1). In general.
 - (2). Goods carried without authority.
 - (3). Extent of lien.
 - (4). Priority of lien.
 - (5). Lien of connecting carrier.
 - (6). Waiver or discharge.
 - (7). Enforcement.

(L) INJURY TO CARRIER.

- 197.1. Liability for injury to carrier.

(M) DISCRIMINATION AND OVERCHARGE.

198. Rights and liabilities of carrier in general.
199. Unlawful discrimination.
200. Excessive charges.
201. Actions for discrimination.
202. Actions for excess of charges paid.

III. CARRIAGE OF LIVE STOCK.

203. What law governs.
204. Statutory regulation.
205. Nature of carrier's duties and liabilities in general.
206. Duty to receive for transportation.

III. CARRIAGE OF LIVE STOCK.(Cont'd)

207. Special contract for transportation.
 - (1). In general.
 - (2). Validity of contract.
 - (3). Modification or merger.
208. Duties in respect to transportation.
- 208.1. — In general.
209. — Mode or means of transportation.
210. — Loading and unloading.
211. — Food, water, and rest.
212. Duties in respect to delivery.
213. Delay in transportation or delivery.
214. Loss or injury.
215. — In general.
- 215.1. — Live stock awaiting transportation or delivery.
216. — Inherent qualities, propensities, or defects.
217. — Contributory negligence of owner.
 - (1). In general.
 - (2). Proximate cause of loss or injury.
- 217.5. Claims for damages.
218. Limitation of liability.
 - (.5). In general.
 - (1). Power to limit liability in general.
 - (2). Power to limit extent of liability.
 - (3). Power to impose conditions with regard to giving notice of loss.
 - (4). Power to impose duties on shipper as to care of stock.
 - (5). Validity of contract granting exemption.
 - (6). Operation and effect of limitations in general.
 - (7). Operation and effect of limitation of amount of liability.
 - (8). Operation and effect of stipulations requiring shipper to load, unload, and care for stock.
 - (9). Operation and effect of stipulations requiring examination of cars by shipper.
 - (10). Operation and effect of stipulation for notice of claim for damages.
 - (11). Waiver.
219. Connecting carriers.
 - (1). In general.
 - (2). Delivery to succeeding carrier.
 - (3). Food, water, and rest.

70. CARRIERS

III. CARRIAGE OF LIVE STOCK.(Cont'd)

- (4). Delay in transportation or delivery.
- (5). Loss or injury.
- (6). Power to limit liability.
- (7). Validity of contract limiting liability.
- (8). Operation and effect of limitation.
- 220. Actions against carriers of live stock.
- 220.1. — In general.
- 221. — Nature and form.
- 222. — Rights of action.
- 223. — Defenses.
- 224. — Jurisdiction and venue.
- 225. — Time to sue, and limitations.
See also LIMITATION OF ACTIONS.
- 226. — Parties.
- 227. — Pleading.
 - (.5). In general.
 - (1). Complaint.
 - (2). Answer and reply.
 - (3). Issues, proof, and variance.
- 228. — Evidence.
 - (.5). In general.
 - (1). Presumptions and burden of proof in general.
 - (2). Limitation of liability.
 - (3). Admissibility of evidence in general.
 - (4). Limitation of liability.
 - (5). Weight and sufficiency of evidence in general.
 - (6). Limitation of liability.
- 229. — Damages.
 - (.5). In general.
 - (1). Elements of damage.
 - (2). Measure of damages in general.
 - (3). Special damage dependent on knowledge of circumstances.
 - (4). Connecting carriers.
 - (5). Amount awarded.
- 230. — Trial.
 - (.5). In general.
 - (1). Questions for jury in general.
 - (1.1). — In general.
 - (2). — Care of stock awaiting transportation or delivery.
 - (3). — Delay in transportation.
 - (4). — Care of stock in transit.

III. CARRIAGE OF LIVE STOCK.(Cont'd)

- (5). — Limitation of liability.
- (6). — Liability of connecting carrier.
- (7). Instructions.
- (7.1). — In general.
- (8). — Delay in transportation.
- (9). — Care of stock by carrier.
- (10). — Limitation of liability.
- (11). — Liability of connecting carriers.
- (12). — Damages.
- (13). Verdict and findings.
- 231. — Judgment.

IV. CARRIAGE OF PASSENGERS.

(A) RELATION BETWEEN CARRIER AND PASSENGER.

- 233. In general; nature of the relation.
- 234. What law governs.
- 235. Who are carriers.
- 235.1. — In general.
- 235.5. — Elevators, escalators, etc., operators of.
- 236. Duty to receive and transport passengers.
 - (1). In general.
 - (1.1). Dangerous, threatening, unruly, or intoxicated persons.
 - (1.2). Overbooking.
 - (2). Actions for failure to furnish transportation.
- 237. Who are passengers.
- 237.1. — In general.
- 245. — Pleading and evidence.
- 247. Commencement and termination of relation.

(B) FARES, TICKETS, AND SPECIAL CONTRACTS.

- 249. Fares, charges, and tickets in general.
- 253.5. Passes.
- 257. Excessive and unauthorized charges.
- 258. Special contracts for transportation.

(C) PERFORMANCE OF CONTRACT OF TRANSPORTATION.

- 262. Duties as to transportation in general.
- 262.5. Accommodations for the handicapped.
- 269. Connecting carriers; changes and transfers.

70. CARRIERS

IV. CARRIAGE OF PASSENGERS.(Cont'd)

- 273. Actions arising out of breach of contract.
- 273.1. — In general.
- 276. — Evidence.
- 277. — Damages.

(D) PERSONAL INJURIES.

- 280. Care required and liability of carrier in general.
 - (1). In general.
 - (1.1). Air carriers.
 - (1.2). Motor carriers; taxicabs and buses.
 - (3). Railroads and urban railroads.
 - (4). Elevators, escalators, etc.
- 281. Care to persons under disability; children.
- 282. Persons to whom carrier is liable; existence of relation.
- 283. Acts or omissions of carrier's employees.
 - (1). In general.
 - (3). Assault or personal violence.
- 284. Acts of fellow passengers or third persons.
- 285. Acts of God, vis major, or inevitable accident.
- 286. Condition and use of premises, station, or terminal.
- 287. Taking up passengers.
 - (1). In general.
 - (4). Duty to assist passenger in boarding.
 - (5). Starting conveyance prematurely or allowing insufficient time to board.
 - (6). School children.
- 288. Sufficiency and safety of means of transportation.
 - 288.1. — In general.
- 289. — Vehicles, buses, and taxicabs.
- 289.5. — Aircraft.
- 290. — Railroads and urban railroads.
- 293. — Elevators, escalators, etc.
- 294. Management of conveyances.
- 295. — In general.
- 295.1. — Air carriers.
- 295.2. — Motor carriers; buses.
- 295.3. — Acts in emergencies.
- 298. — Sudden jerks and jolts.
- 300. — Collision.

IV. CARRIAGE OF PASSENGERS.(Cont'd)

- 302. Protection of passengers from incidental dangers.
 - (1). In general; foreign objects or debris.
 - (3). Injuries caused by opening or shutting door.
- 303. Setting down passengers.
 - (1). In general.
 - (6). Duty to provide safe place and means for alighting.
 - (7). Duty to warn passenger of dangers.
 - (8). Duty to assist passenger in alighting.
 - (9). Injuries received after alighting from conveyance.
 - (10). School children.
- 304. Care as to persons accompanying passengers.
- 305. Proximate cause of injury.
 - (1). In general.
 - (4). Management of conveyances.
 - (6). Negligence of third person contributing to injury.
- 306. Companies or persons liable.
 - Excludes carrier's liability for acts or omissions of employees, other passengers, or third persons, see ¶283, 284.*
 - (1). In general.
 - (5). Government, and immunity and waiver thereof, in general.
 - (6). Transportation related to schools.
- 307. Limitation of liability.
 - (1). In general.
 - (1.5). Warsaw Convention in general.
 - (2). Power to limit liability for injuries to persons riding free or at reduced rates.
 - (4). Validity of contract and assent of passenger thereto.
 - (6). Operation and effect of limitation.
 - (6.1). — In general.
 - (7). — Nature of injury.
 - (8). — Time limitations.
- 308. Connecting carriers.
- 309. Actions for injuries.
- 309.1. — In general.
- 310. — Nature and form.
- 311. — Rights of action and defenses.
- 312. — Jurisdiction and venue.

70. CARRIERS

IV. CARRIAGE OF PASSENGERS.(Cont'd)

- 314. — Pleading.
- 315. — Issues, proof, and variance.
- 316. — Presumptions and burden of proof.
 - (1). In general.
 - (1.5). Res ipsa loquitur and presumption or inference of negligence in general.
 - (3). Where injury is caused by sudden jerks or by suddenly or prematurely starting or stopping conveyance.
 - (4). Where injuries are caused by collision.
 - (7). Machinery or instrumentalities, and defects therein.
 - (7.5). Injuries to aircraft passengers.
 - (10). Injuries due to elevators, escalators, etc.
- 317. — Admissibility of evidence.
 - (1). In general.
 - (5). Condition of conveyances and appliances.
 - (8). Management of conveyances.
 - (9). Other accidents or similar transactions.
 - (11). Rules of carrier.
- 318. — Sufficiency of evidence.
 - (1). In general.
 - (2). As to negligence in respect to condition of carrier's premises.
 - (3). As to negligence with respect to means of transportation.
 - (4). As to negligence in management of conveyances in general.
 - (7). As to negligence causing collision.
 - (8). As to negligence in taking up or setting down passengers.
 - (12). As to companies or persons liable for injuries.
- 319. — Damages.
Compensatory damages for personal injuries, see DAMAGES.
- 320. — Questions for jury.
 - (1). In general.
 - (6). Acts of fellow passengers or third persons.
 - (7). Condition and use of carrier's premises.
 - (8). Taking up passengers.

IV. CARRIAGE OF PASSENGERS.(Cont'd)

- (14). Condition of elevators, escalators, etc.
- (15). Management of conveyances in general.
- (19). Sudden lurches, jerks, or jolts.
- (21). Collision.
- (23). Management of elevators, escalators, etc.
- (24). Protection of passengers from incidental dangers.
- (25). Setting down passengers.
- (30). Proximate cause of injury.
- 321. — Instructions.
 - (1). In general.
 - (9). Management of conveyances.
 - (14). Taking up or setting down passengers.
 - (19). Proximate cause of injury.
 - (21). Presumptions and burden of proof.
 - (23). Conformity to pleadings, issues, and proof.
- 322. — Verdict and findings.
- (E) CONTRIBUTORY AND COMPARATIVE NEGLIGENCE.
- 323. Contributory and comparative negligence, and assumption of risk, in general.
- 329. In transit.
- 333. Leaving conveyance.
- 334. Disobedience to rules, contract, direction or warning.
- 336. Acts by permission or direction of carrier's employees.
- 337. Negligence as to incidental dangers.
- 338. Acts in emergencies.
- 339. Proximate cause of injury.
- 340. Injury avoidable by care on part of carrier.
- 341. Willful injury by carrier's employees.
- 342. Actions.
 - 342.1. — In general.
- 343. — Pleading.
- 344. — Evidence.
- 347. — Questions for jury.
- 348. — Instructions.
- 349. — Verdict and findings.

72. CENSUS

(F) EJECTION OF PASSENGERS AND INTRUDERS.

- 350. Rights and liabilities of carrier.
- 375. Actions.

(G) PASSENGERS' EFFECTS; BAGGAGE.

- 387. Transportation in general.
- 397. Loss or injury.
- 404. Carrier as warehouseman.
- 405. Limitation of liability.
 - (1). In general.
 - (2). Mode and form of limitation; tariffs and air carrier conventions.
 - (3). Notice and assent; provisions in ticket, check, or receipt.
 - (4). Operation and effect of limitation.
- 406. Connecting carriers.
- 407. Charges and liens.
- 408. Actions.
 - (1). In general.
 - (4). Evidence.
 - (5). Damages.
 - (6). Trial.

71. CEMETERIES

SUBJECTS INCLUDED

Lands used for burial of the dead, whether in churchyards or other places, and regulations relating thereto

Organization, franchises and powers of companies formed to provide and maintain such places

Rights, duties and liabilities of such companies and of purchasers of lots or other rights or privileges in respect of property

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Burial, personal rights, duties and liabilities, see DEAD BODIES

Decedents' estates, liabilities of, see EXECUTORS AND ADMINISTRATORS

Sanitary regulations, see HEALTH

Zoning restrictions, see ZONING AND PLANNING

- 1. Power to establish and regulate.
- 2. Lands constituting cemeteries.
- 3. Statutory and municipal regulations.
- 4. Establishment by municipalities.
- 5. Companies and associations.
- 6. Location.
- 7. — In general.
- 8. — Consent of adjacent landowners.
- 9. — Consent of public authorities.
- 10. Acquisition of and title to lands.
- 10.1. — In general.
- 11. — Mode of acquiring lands.
- 12. — Title and rights acquired.
- 13. — Power to sell or mortgage or lease.
- 14. — Abandonment.
- 15. Title and rights of owners of lots in general.
- 16. Right of burial.
- 17. Care of grounds, lots, and graves.
- 18. Tombstones and monuments.
- 19. Trespasses.
- 20. — In general.
- 21. — Disinterments.
- 22. Offenses.

72. CENSUS

SUBJECTS INCLUDED

Enumeration of inhabitants of the country or state and collection of statistics of their condition, property, commerce, etc., by public authority

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Congress and state legislatures, apportionment of representatives according to population, see STATES, UNITED STATES

Federal direct taxes, apportionment among the states, see INTERNAL REVENUE

- 1. United States census.
- 1.1. — In general.
- 2. — Constitutional and statutory provisions.

72. CENSUS

3. — Officers.
4. — Making enumeration.
5. — Refusal to furnish information.
6. — Making returns.
7. — Compilation and publication of returns.
8. State census.
9. Municipal census.

73. CERTIORARI

SUBJECTS INCLUDED

Review by superior courts of judicial action of inferior tribunals or officers, in statutory or other proceedings not subjects of appeal or writ of error, etc., by removal and examination of records of such proceedings for correction of errors and irregularities therein

Statutory writ of review performing the same function

Nature and scope of the remedy in general; in what cases and as to what proceedings review is allowed

Grounds for, jurisdiction to grant and proceedings to obtain such review

Requisites, issuance and effect of writs and other process for such review

Quashing or dismissing such writs

Returns thereto and proceedings thereon, hearing and determination thereof and effect of decisions thereon

Review of the proceedings and costs

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Criminal prosecutions, review of proceedings, see CRIMINAL LAW

Federal courts, review under statutes or rules of court, see FEDERAL COURTS

Justices of the peace, review of proceedings before, see JUSTICES OF THE PEACE, CRIMINAL LAW

Particular forms of action or proceedings other than actions, review by certiorari, see CONTEMPT, EMINENT DOMAIN, HA-

BEAS CORPUS, MANDAMUS and other specific topics

Particular subjects, review of proceedings relating to, and especially particular administrative proceedings, see ADMINISTRATIVE LAW AND PROCEDURE, EMINENT DOMAIN, EXECUTORS AND ADMINISTRATORS, MUNICIPAL CORPORATIONS and other specific topics

United States Supreme Court, certiorari in, see FEDERAL COURTS

I. NATURE AND GROUNDS, ¶1-34.

II. PROCEEDINGS AND DETERMINATION, ¶35-72.

I. NATURE AND GROUNDS.

1. Nature and scope of remedy in general.
2. Constitutional and statutory provisions.
3. Availability of relief in original proceeding.
4. Existence of other remedy in general.
5. Existence of remedy by appeal or writ of error.
 - (1). In general.
 - (2). Inadequacy of remedy by appeal or writ of error.
6. Loss of right to other remedy.
7. Recourse to or pendency of other proceeding.
8. Adequacy of remedy by certiorari.
9. Discretion as to grant of writ.
10. Successive writs or proceedings.
11. Decisions and proceedings of courts, judges, and judicial officers.
 - 11.1. — In general.
12. — Judicial nature of proceedings in general.
13. — Proceedings not according to course of common law.
14. — Courts and other tribunals subject to review.
15. — Subject-matter.
16. — Finality of determination.
- 16.5. — Certiorari ineffectual or not beneficial.
17. — Particular proceedings in civil actions.
18. — Special proceedings.
19. — Summary proceedings.

73. CERTIORARI

I. NATURE AND GROUNDS.(Cont'd)

- 20. Acts and proceedings of public officers and boards and municipalities.
- 20.1. — In general.
- 21. — Judicial nature of proceedings in general.
- 22. — Discretionary acts.
- 23. — Legislative acts and ordinances.
- 24. — Executive and ministerial acts in general.
- 25. — Appointment or removal of officers.
- 26. — Audit and payment of claims.
- 27. Grounds in general.
- 28. Want or excess of jurisdiction.
 - (1). In general.
 - (2). Decisions and proceedings of courts, judges and judicial officers.
 - (3). Acts and proceedings of public officers and boards.
- 29. Errors and irregularities.
- 31. Defenses and grounds of opposition.
- 32. Right of review.
- 32.1. — In general.
- 33. — Persons entitled.
 - (1). In general.
 - (2). Decisions and proceedings of courts, judges and judicial officers.
 - (3). Acts and proceedings of public officers and boards and municipalities.
- 34. — Estoppel or waiver.

II. PROCEEDINGS AND DETERMINATION.

- 35. Jurisdiction.
- 36. Presentation of objections and exceptions in original proceeding.
- 37. Parties.
- 38. Time of taking proceedings.
- 39. — In general.
- 40. — Constitutional and statutory limitations.
See also LIMITATION OF ACTIONS.
- 41. — Laches.
- 42. Petition or other application.
 - (.5). In general.
 - (1). Formal requisites and necessity in general.
 - (2). Signature and verification.

II. PROCEEDINGS AND DETERMINATION.(Cont'd)

- (3). Sufficiency of allegations in general.
- (4). Allegations of error.
- (5). Excusing failure to appeal.
- (6). Affidavit of merits and good faith.
- (7). Records or exhibits.
- (8). Defects and objections.
- (9). Amendment.
- 43. Bond or other security, and payment of costs and fees.
- 44. Allowance and issuance of writ.
- 45. Form and requisites of writ.
- 46. Service of writ or notice of proceeding.
- 47. Supersedeas or stay of proceedings.
- 48. Return and record.
- 49. — In general.
- 50. — Scope and contents of record or transcript.
- 51. — Statement of matters not of record.
- 52. — Bill of exceptions.
- 53. — Making, form, and requisites.
- 54. — Defects and objections.
- 55. — Amendment and further return.
- 56. — Conclusiveness and effect.
 - (1). In general.
 - (2). Contradicting return.
- 57. — Questions presented for review.
- 58. — Matters not apparent of record.
- 59. Assignment of errors.
- 60. Quashing or dismissal.
- 61. Notice of hearing.
- 62. Hearing and rehearing.
- 63. Review.
- 63.1. — In general.
- 64. — Scope and extent in general.
 - (1). In general.
 - (2). Jurisdictional questions.
- 65. — Mode of review and trial de novo.
- 66. — Presumptions.
- 67. — Matters of discretion.
- 68. — Questions of fact.
- 69. Determination and disposition of cause.
- 70. Appeal or other proceedings for review.
 - (.5). In general.
 - (1). Decisions reviewable, and jurisdiction.

73. CERTIORARI

II. PROCEEDINGS AND DETERMINATION.(Cont'd)

- (2). Failure to present question in certiorari proceeding.
 - (3). Requisites of and proceedings for transfer of cause and supersedeas.
 - (3.5). Parties.
 - (4). Record and assignments of error.
 - (5). Scope and extent of review in general.
 - (6). Presumptions.
 - (7). Matters of discretion.
 - (8). Questions of fact.
 - (9). Determination and disposition of cause.
71. Costs.
72. Liabilities on bonds.

74. CHAMPERTY AND MAINTENANCE

SUBJECTS INCLUDED

Officious intermeddling in a suit between others by assisting either party to carry it on, with or without an agreement to divide the subject of litigation in the event of success

Agreements for such division or for the purchase of property held adversely, conveyances of such property

Agreements for the purchase of pretended titles or rights of actions for the purpose of suing thereon

Criminal responsibility for unlawful maintenance of suits and barratry

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Attorneys, contracts for compensation by contingent fees, and professional ethics, see ATTORNEY AND CLIENT

- 1. Nature and elements in general.
- 2. What law governs.
- 3. Statutory provisions.
- 4. Champertous contracts in general.

- (.5). In general.
 - (1). Agreements to conduct litigation or pay costs and expenses of suit, or to advance money therefor, in consideration of portion of recovery.
 - (2). Agreements in consideration of information given or services rendered.
 - (3). Agreements to dismiss or abandon suit.
 - (4). Mortgage or sale of chattels held or claimed adversely.
 - (5). Who may raise objections.
 - (6). Persons liable.
 - (7). Operation and effect.
 - (8). Pleading.
5. Contracts and transactions with attorneys.
- (.5). In general.
 - (1). Validity of contract in general.
 - (2). In absence of attorney's agreement to pay costs.
 - (3). As affected by attorney's agreement to pay costs and expenses.
 - (4). Agreements with political bodies.
 - (5). Agreements with third persons to procure claims for collection.
 - (6). Agreements whereby attorney acquires interest in subject-matter.
 - (7). Who may raise objections.
 - (8). Operation and effect.
 - (9). Pleading and evidence.
 - (10). Questions for jury and instructions.
6. Transfers of claims for purpose of litigation.
- (1). In general.
 - (2). What are litigious rights.
 - (3). Assignments pendente lite.
 - (4). Who may raise objections.
 - (5). Operation and effect.
7. Grants of lands held adversely.
- (.5). In general.
 - (1). Validity of deed to land held adversely in general.
 - (2). What constitutes adverse possession.
 - (3). Alienations prohibited.
 - (4). Persons entitled to make objections.

75. CHARITIES

- (5). Operation and effect; pleading and proceedings in general.
- (6). Instructions.
- (7). Questions for jury.
- 8. Criminal responsibility.
- 8.1. — In general.
- 9. — Offenses.
- 10. — Prosecution and punishment.
- 11. Actions for damages.

75. CHARITIES

SUBJECTS INCLUDED

Gifts, devises, bequests and trusts for purposes regarded as charitable uses; their validity, operation and effect in general

Application to them of the doctrine of cy pres

Organization, franchises and powers of charitable societies

Rights, powers and liabilities of such societies, or of trustees of charities, or of the donors and of beneficiaries

Judicial control and protection of charitable societies and charities, and remedies relating thereto

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Particular charitable institutions and organizations, see ASYLUMS AND ASSISTED LIVING FACILITIES, HEALTH, INFANTS, MENTAL HEALTH, RELIGIOUS SOCIETIES

Particular instruments, validity and construction, see DEEDS, GIFTS, TRUSTS, WILLS

Perpetuities and accumulations, restrictions on, see PERPETUITIES

Taxation of property of charitable societies or property held for charitable purposes, and exemptions, see TAXATION

Testamentary disposition, restrictions on, see WILLS

I. CREATION, EXISTENCE AND VALIDITY, ¶1-30.

II. CONSTRUCTION, ADMINISTRATION, AND ENFORCEMENT, ¶31-50.

I. CREATION, EXISTENCE AND VALIDITY.

- 1. Nature of charities.
- 2. What law governs.
- 3. Constitutional and statutory provisions.
- 4. Validity of gifts and trusts in general.
- 5. Subject of gift.
- 6. Form of gift.
- 7. Character and capacity of beneficiaries.
- 8. Number of beneficiaries.
- 9. Purposes of gift.
- 10. — In general.
- 11. — Relief of poor or unfortunate.
- 12. — Education.
- 13. — Promotion of religion.
- 14. — Public institutions and improvements.
- 15. — Care or improvement of burial grounds or lots.
- 16. — Prayers or masses.
- 17. Certainty as to property.
- 18. Necessity of trustee.
- 19. Certainty as to trustees or donees.
- 20. Capacity of trustees or donees to take.
 - (1). In general.
 - (2). Corporations.
 - (3). Voluntary unincorporated associations.
 - (4). Associations or corporations to be created or incorporated.
 - (5). Municipal bodies or corporations.
- 21. Certainty as to beneficiaries.
 - (1). In general.
 - (2). Beneficiaries to be designated by trustees or donees.
 - (3). Gifts for relief of poor, unfortunate, or infirm.
 - (4). Gifts for promotion of education.
 - (5). Gifts for promotion of religion.
- 22. Certainty as to purpose of gift.
 - (1). In general.
 - (2). Purpose discretionary with trustee.
 - (3). Gifts for relief of poor or unfortunate.
 - (4). Gifts for promotion of education.
 - (5). Gifts for promotion of religion.
- 23. Certainty as to manner of executing trust.

75. CHARITIES

I. CREATION, EXISTENCE AND VALIDITY.(Cont'd)

24. Acceptance by trustee or donee.
25. Partial invalidity.
26. Estoppel or waiver as to defects or objections.
27. Persons entitled to question validity of gift.
28. Modification or revocation.
29. Nonuser or misuser.
30. Duration and termination.

II. CONSTRUCTION, ADMINISTRATION, AND ENFORCEMENT.

31. General rules of construction.
32. Evidence to aid construction.
33. Trustees or donees.
34. Beneficiaries.
35. Property included and title or interest acquired.
36. Purposes of gift.
37. Application of doctrine of cy pres.
 - (5). In general.
 - (1). Nature and requisites in general.
 - (2). Adoption or rejection of doctrine.
 - (3). Impossibility or impracticability of literal compliance with trust.
 - (4). Ineffective designation or nonexistence of donee, or renunciation of gift.
 - (5). Surplus or deficiency of funds.
 - (6). General charitable purposes.
 - (7). Provision by donor in event of failure of gift.
 - (8). Manner of application.
38. Conditions.
39. Incorporation and organization of charitable societies.
40. Franchises and powers of charitable societies.
41. Public aid.
- 41.5. Statutory regulations.
42. Supervision by public officers.
43. Judicial supervision or administration.
44. Visitation.
45. Rights, duties, and liabilities of charitable societies and trustees.
 - (1). In general.
 - (2). Liability for torts.
46. Officers and agents of charitable societies.

II. CONSTRUCTION, ADMINISTRATION, AND ENFORCEMENT.(Cont'd)

47. Judicial appointment of trustees.
48. Administration and disposition of property or funds.
 - (1). In general.
 - (2). Sale or lease of property.
49. Persons entitled to enforce charitable trust.
50. Actions for administration or enforcement.

76. CHATTEL MORTGAGES

SUBJECTS INCLUDED

Transfers of personal property in general as security for payment of money or performance of contracts or other obligations, whether made by conveyance on condition or with defeasance, or by deed of trust, or trust receipt or by bill of sale or other conveyance absolute in form without delivery of the property

Nature, requisites, validity, incidents, operation and effect of such transfers

Evidence relating thereto

Instruments in writing by which such conveyances, defeasances, etc., are made, and delivery, acceptance, recording or registration and construction thereof

Liens of mortgages and priorities

Rights, duties and liabilities of the parties as between themselves and as to others

Effect of transfers of debts and obligations secured, or of mortgages, and of property mortgaged

Fraudulent sale or removal of mortgaged goods

Payment or other satisfaction or release

Enforcement and redemption

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Assignments as security of choses in action, see ASSIGNMENTS

Conditional sales, see SALES

76. CHATTEL MORTGAGES

Fixtures, rights of mortgagors and mortgagees, see **FIXTURES**

Fraud in mortgage as to creditors or subsequent purchasers, see **FRAUDULENT CONVEYANCES**

Particular classes of persons, mortgages by or to, see **INFANTS, MENTAL HEALTH** and other specific topics

— Associations and unincorporated companies, see **ASSOCIATIONS, CORPORATIONS AND BUSINESS ORGANIZATIONS XV**

— Corporations, see **CORPORATIONS AND BUSINESS ORGANIZATIONS**

— Fiduciary or representative capacity, persons in, see **EXECUTORS AND ADMINISTRATORS, GUARDIAN AND WARD, PRINCIPAL AND AGENT, TRUSTS** and other specific topics

— Partners, see **PARTNERSHIP**

Pledges and collateral securities, see **CORPORATIONS AND BUSINESS ORGANIZATIONS, PLEDGES**

Secured transactions under Uniform Commercial Code, see **SECURED TRANSACTIONS**

Vessels, cargos, freight, etc., mortgages of, see **SHIPPING**

I. REQUISITES AND VALIDITY, ¶1-80.

(A) NATURE AND ESSENTIALS OF TRANSFERS OF CHATTELS AS SECURITY, ¶1-40.

(B) FORM AND CONTENTS OF INSTRUMENTS, ¶41-56.

(C) EXECUTION AND DELIVERY, ¶57-69.

(D) VALIDITY, ¶70-80.

II. FILING, RECORDING, AND REGISTRATION, ¶82-99.

(A) ORIGINAL, ¶82-94.

(B) RENEWAL, ¶95-99.

III. CONSTRUCTION AND OPERATION, ¶100-157.

(A) GENERAL RULES OF CONSTRUCTION, ¶100-107.

(B) PARTIES AND DEBTS OR LIABILITIES SECURED, ¶108-115.

(C) PROPERTY MORTGAGED, AND ESTATES AND INTERESTS OF PARTIES THEREIN, ¶116-132.

(D) LIEN AND PRIORITY, ¶133-157.

IV. RIGHTS AND LIABILITIES OF PARTIES, ¶158-178.

V. RIGHTS AND REMEDIES OF CREDITORS, ¶179-202.

VI. ASSIGNMENT OF MORTGAGE OR DEBT, ¶203-215.5.

VII. REMOVAL OR TRANSFER OF PROPERTY BY MORTGAGOR, ¶216-234.

(A) RIGHTS AND LIABILITIES OF PARTIES, ¶216-229.

(B) CRIMINAL RESPONSIBILITY, ¶230-234.

VIII. PAYMENT OR PERFORMANCE OF CONDITION, RELEASE, AND SATISFACTION, ¶235-248.

IX. FORECLOSURE, ¶249-292.

X. REDEMPTION, ¶293-300.

I. REQUISITES AND VALIDITY.

(A) NATURE AND ESSENTIALS OF TRANSFERS OF CHATTELS AS SECURITY.

1. Nature of mortgage in general.
2. What law governs.
3. Statutory provisions.
4. Mortgage distinguished from other transactions.
5. — In general.
6. — Sale.
7. — Lease.
8. — Pledge.
9. — Trust or power.
10. Property which may be subject of mortgage.
11. — In general.
12. — Crops.
13. — Animals and increase.
14. — Household goods.
15. — Stock in trade.
16. — Fixtures.
17. — Title or interest of mortgagor.
18. — After-acquired property.
19. Mortgage of both real and personal property.
20. Debts or liabilities which may be secured.
21. — In general.
22. — Future advances.
23. — Performance of contract or other obligation.
24. — Indemnity mortgages.
25. — Fees and costs.
26. Conditions which may be imposed.

76. CHATTEL MORTGAGES

I. REQUISITES AND VALIDITY.(Cont'd)

- 27. Parties.
- 28. — In general.
- 29. — Persons who may make mortgage.
- 30. — Persons who must join in mortgage.
- 31. — Persons to whom mortgage may be made.
- 32. Consideration.
- 33. Equitable mortgage.
- 34. Absolute bill of sale as mortgage.
- 35. Evidence as to character of transaction or instrument.
- 35.1. — In general.
- 36. — Presumptions and burden of proof.
- 37. — Admissibility in general.
- 38. — Parol evidence.
- 39. — Weight and sufficiency.
- 40. Questions for jury.

(B) FORM AND CONTENTS OF INSTRUMENTS.

- 41. Necessity and sufficiency of writing in general.
- 42. Form of instrument.
- 43. — In general.
- 44. — Trust deeds.
- 45. Designation of parties.
- 46. Description of property.
- 46.1. — In general.
- 47. — Certainty in general.
- 48. — Crops.
- 49. — Animals.
 - (1). In general.
 - (2). Marks and brands.
- 50. — Stock in trade.
- 51. — False description.
- 52. Description of debts or liabilities secured.
- 53. Promise to pay debt.
- 54. Statement as to mortgage in obligation secured.
- 55. Statement of consideration.
- 56. Statement of condition.

(C) EXECUTION AND DELIVERY.

- 57. Execution in general.
- 58. Signature.
- 59. Seal.
- 60. Attestation.
- 61. Acknowledgment.
- 62. Affixing revenue stamps.

I. REQUISITES AND VALIDITY.(Cont'd)

- 63. Affidavit accompanying instrument.
- 64. Delivery of copy of instrument to mortgagor.
- 65. Confirmation or ratification of defective instrument.
- 66. Delivery.
- 67. Acceptance.
- 68. Evidence.
- 69. Questions for jury.

(D) VALIDITY.

- 70. Capacity and assent of parties in general.
- 71. Mistake.
- 72. Fraud, duress, or undue influence.
- 73. Illegality.
- 74. Partial invalidity.
- 75. Estoppel or waiver as to defects or objections.
- 76. Ratification of voidable mortgage.
- 77. Right to contest validity.
- 79. Evidence.
- 80. Questions for jury.

II. FILING, RECORDING, AND REGISTRATION.

(A) ORIGINAL.

- 82. What law governs.
- 83. Statutory provisions.
- 84. Necessity as between parties to instrument.
- 85. Instruments to be recorded.
- 86. Time.
- 87. Place.
- 88. Effect of removal of mortgagor.
- 89. Effect of removal of goods.
- 90. Sufficiency.
- 91. Effect of filing or record as between parties to instrument.
- 92. Effect of failure to file or record as between parties to instrument.
- 93. Evidence.
- 94. Questions for jury.

(B) RENEWAL.

- 95. Statutory provisions.
- 96. Necessity.
- 97. Time.

76. CHATTEL MORTGAGES

II. FILING, RECORDING, AND REGISTRATION.(Cont'd)

- 98. Affidavit for renewal or continuance.
- 99. Filing or recording anew.

III. CONSTRUCTION AND OPERATION.

(A) GENERAL RULES OF CONSTRUCTION.

- 100. Application to chattel mortgages in general.
- 101. What law governs.
- 102. Language of instrument in general.
- 103. Recitals.
- 104. Construing instruments together.
- 105. Time of taking effect.
- 106. Evidence to aid construction in general.
- 107. Questions for jury.

(B) PARTIES AND DEBTS OR LIABILITIES SECURED.

- 108. Parties secured.
- 109. Debts secured in general.
- 110. Future advances.
- 111. Payment of debt.
- 112. Performance of contract or other obligation.
- 113. Indemnity.
- 114. Extension to other debts or liabilities.
- 115. Fees and costs.

(C) PROPERTY MORTGAGED, AND ESTATES AND INTERESTS OF PARTIES THEREIN.

- 116. Property included in description in general.
- 117. Crops.
- 118. Animals and increase.
- 119. Household goods.
- 120. Stock in trade.
- 121. Fixtures.
- 122. Particular description.
- 123. Erroneous description.
- 124. After-acquired property or interest.
- 125. Change in character or identity of property.
- 126. Extension to or substitution of other property.
- 127. Title of mortgagor.
- 128. Estates and interests of parties.
- 128.1. — In general.
- 129. — Under mortgages in general.
- 130. — Under trust deeds.

III. CONSTRUCTION AND OPERATION.(Cont'd)

- 131. — Under absolute bill of sale as mortgage.
- 132. Exceptions and reservations.

(D) LIEN AND PRIORITY.

- 133. Nature and existence of lien in general, and statutory provisions.
- 134. Scope and extent of lien.
- 135. Duration of lien.
- 136. Waiver or loss of lien.
- 137. Priorities of debts or obligations secured by same mortgage.
- 138. Priorities of mortgages in general.
 - (1). In general.
 - (2). Priorities between mortgages.
 - (3). Priority between mortgage and landlord's lien.
- 139. Mortgagee as bona fide purchaser.
- 140. Priority of mortgage or lien for price of property mortgaged.
- 141. Priority as affected by provisions of mortgage or by agreement.
- 142. Priority of execution or delivery.
- 143. Priority as affected by possession.
- 144. Priority of record.
- 145. Notice of mortgage affecting priority.
- 146. — In general.
- 147. — Actual notice.
- 148. — Constructive notice in general.
- 149. — Possession as notice.
- 150. — Record of mortgage as notice.
 - (1). In general.
 - (2). Delay in recording, and recording in wrong place.
 - (3). Mortgage on crops.
- 151. Failure to file or record mortgage.
- 151.1. — In general.
- 152. — Effect in general.
- 153. — Subsequent bona fide purchasers or mortgagees.
- 154. — Purchase or mortgage as affected by failure to renew or refile.
- 155. — Effect of actual notice.
- 156. — Effect of change of possession.
- 157. Actions to determine and establish rights.
 - (1). In general.

76. CHATTEL MORTGAGES

III. CONSTRUCTION AND OPERATION.(Cont'd)

- (2). Evidence.
- (3). Questions for jury.

IV. RIGHTS AND LIABILITIES OF PARTIES.

- 158. Possession or control of property.
- 158.1. — In general.
- 159. — Before default in general.
- 160. — Statutory provisions.
- 161. — Provisions of mortgage.
- 162. — After default.
- 163. Use and disposition of property or proceeds.
- 163.1. — In general.
- 164. — By mortgagor.
- 165. — By mortgagee in possession.
- 166. — By mortgagee or trustee after default.
- 167. Conversion of or injury to property.
- 167.1. — In general.
- 168. — By mortgagor.
- 169. — By mortgagee or trustee.
- 170. — By third persons.
 - (1). In general.
 - (2). Attachment or execution creditors.
- 171. Actions for possession of property.
- 171.1. — In general.
- 172. — Between parties to mortgage.
 - (1). In general.
 - (2). Defense.
 - (3). Conditions precedent.
 - (4). Pleading and parties.
 - (5). Evidence.
 - (6). Damages.
 - (7). Questions for jury.
 - (8). Instructions.
 - (9). Verdict and judgment.
- 173. — Against third persons.
 - (1). In general.
 - (2). Conditions precedent.
 - (3). Parties and pleading.
 - (4). Evidence.
 - (5). Damages.
 - (6). Questions for jury.
- 174. — Between mortgagees.
 - (1). In general.
 - (2). Pleading and evidence.

IV. RIGHTS AND LIABILITIES OF PARTIES.(Cont'd)

- 175. Actions for damages.
 - 175.1. — In general.
 - 176. — Between parties to mortgage.
 - (1). In general.
 - (2). Conditions precedent.
 - (3). Pleading.
 - (4). Evidence.
 - (5). Damages.
 - (6). Trial.
 - 177. — Against third persons.
 - (1). In general.
 - (2). Pleading.
 - (3). Evidence.
 - (4). Damages.
 - (5). Trial.
 - 178. — Between mortgagees.
 - (1). In general.
 - (2). Pleading.
 - (3). Evidence.
- ### V. RIGHTS AND REMEDIES OF CREDITORS.
- 179. Rights in derogation of mortgage in general.
 - 180. Creditors entitled to attack mortgage.
 - 180.1. — In general.
 - 181. — Nature and grounds of claims in general.
 - 182. — Necessity of lien.
 - 183. — Sufficiency of lien.
 - 184. Retention of possession by mortgagor.
 - 184.1. — In general.
 - 185. — Necessity of change of possession as against creditors.
 - 186. — Statutory provisions.
 - 187. — Effect of possession or control by mortgagor in general.
 - 188. — Reservation of possession, power of sale, or use.
 - (1). In general.
 - (2). Sale in usual course of trade.
 - 189. — Agency of mortgagor for mortgagee.
 - 190. — Disposition of proceeds of property.
 - (1). In general.
 - (2). Discharge of mortgage debt.

76. CHATTEL MORTGAGES

V. RIGHTS AND REMEDIES OF CREDITORS. (Cont'd)

- 191. — Sufficiency of transfer of possession.
- 192. Delay in filing or recording or renewal or refiling.
- 193. Failure to file or record mortgage.
- 193.1. — In general.
- 194. — Necessity of filing or recording as against creditors.
- 195. — Statutory provisions.
- 196. — Effect of failure to file or record or to renew filing or record.
- 197. — Creditors entitled to protection.
 - (1). In general.
 - (2). Creditors with notice.
- 198. Defects cured by taking possession.
- 199. Waiver or estoppel.
- 200. Remedies on ground of nullity of mortgage.
- 201. Actions to determine and establish rights.
 - (1). In general.
 - (2). Evidence.
- 202. Actions to set aside mortgages.

VI. ASSIGNMENT OF MORTGAGE OR DEBT.

- 203. Requisites and validity in general.
- 204. Filing or recording assignment.
- 205. Transfer of debt or obligation secured.
- 206. Operation and effect.
- 207. Rights and liabilities of parties.
- 208. — In general.
- 209. — Property mortgaged.
- 210. — Payment or release of debt.
- 211. — Equities and defenses between original parties.
- 212. — Equities in favor of third persons.
- 213. Actions by or against assignees.
- 214. Assignment to mortgagor or owner of property.
- 215. — In general.
- 215.5. Evidence.

VII. REMOVAL OR TRANSFER OF PROPERTY BY MORTGAGOR.

(A) RIGHTS AND LIABILITIES OF PARTIES.

- 216. Right of mortgagor to remove.
- 217. Effect of removal.

VII. REMOVAL OR TRANSFER OF PROPERTY BY MORTGAGOR. (Cont'd)

- 218. Right of mortgagor to sell and convey.
- 219. Consent of mortgagee to sale.
- 220. Liabilities of mortgagor on transfer of property.
- 223. Rights and liabilities of purchaser or transferee.
- 223.1. — In general.
- 224. — As to mortgagor.
- 225. — As to mortgagee in general.
 - (1). In general.
 - (2). Conversion.
- 226. — Assumption of debt.
- 227. Right to proceeds of property.
- 228. Actions by mortgagee against mortgagor.
- 229. Actions by mortgagee against purchaser or transferee.
 - (1). In general.
 - (2). Pleading.
 - (3). Evidence.

(B) CRIMINAL RESPONSIBILITY.

- 230. Offenses.
- 231. Preliminary proceedings in prosecution.
- 232. Indictment or information.
- 233. Evidence.
- 234. Trial and review.

VIII. PAYMENT OR PERFORMANCE OF CONDITION, RELEASE, AND SATISFACTION.

- 235. Payment of debt.
- 235.5. Taking new notes.
- 236. Performance of particular conditions.
- 237. Tender.
- 237.1. — In general.
- 238. — Before default.
- 239. — After default.
- 240. Conveyance or disposition of property mortgaged.
- 241. Giving new security.
- 242. Resort to or release of other security or remedy.
- 243. Release in general.
- 244. Partial release.
- 245. Penalties for failure to release or enter satisfaction.
- 246. Entry of satisfaction of record.
- 247. Effect of release or satisfaction.

76. CHATTEL MORTGAGES

VIII. PAYMENT OR PERFORMANCE OF CONDITION, RELEASE, AND SATISFACTION.(Cont'd)

248. Rights of third persons making payment
or satisfaction.

IX. FORECLOSURE.

- 249. Right to foreclose in general.
- 250. Maturity of debt.
- 251. Option and election to foreclose.
- 252. Default in payment or performance of
condition.
- 253. Waiver of default or of right to fore-
close.
- 254. Delay or failure to foreclose.
- 255. Existence of or resort to other remedy;
election of remedy.
- 256. Restraining foreclosure.
- 257. Exercise of power of sale.
- 257.1. — In general.
- 258. — Nature and grounds of remedy.
- 259. — Statutory provisions.
- 260. — Preliminary proceedings and trans-
fer of proceedings to court.
- 261. — Taking possession, custody, and
protection of property.
- 262. — Manner and conduct of sale.
 - (1). In general.
 - (2). Sale in bulk or parcels.
 - (3). Persons who may purchase.
 - (4). Amount sold.
- 263. — Title and rights of purchaser.
- 264. — Deficiency and personal liability.
- 265. — Proceeds and surplus.
- 266. — Fees and costs.
- 267. — Operation and effect.
- 268. Actions to foreclose.
- 268.1. — In general.
- 269. — Nature and form.
- 270. — Statutory provisions.
- 271. — Grounds and conditions precedent.
- 272. — Defenses.
- 273. — Jurisdiction and venue.
- 274. — Limitations and laches.
See also LIMITATION OF ACTIONS.
- 275. — Parties.
- 276. — Process and appearance.
- 277. — Pleading.
- 278. — Evidence.
- 279. — Attachment or sequestration.

IX. FORECLOSURE.(Cont'd)

- 280. — Redelivery of property to mortga-
gor on security.
- 281. — Injunction and receiver.
- 282. — Trial or hearing.
- 283. — Judgment or decree and execution.
- 284. — Claims to property by third per-
sons.
- 285. — Manner and conduct of sale.
- 286. — Title and rights of purchaser.
- 287. — Deficiency and personal liability.
- 288. — Proceeds and surplus.
- 289. — Review.
- 290. — Fees and costs.
- 291. — Operation and effect.
- 292. Wrongful foreclosure.
 - (1). In general.
 - (2). Damages.

X. REDEMPTION.

- 293. Right to redeem in general.
- 294. Persons entitled to redeem.
- 295. Waiver, estoppel, and laches.
- 296. Time of redemption.
- 297. Amount required to redeem.
- 298. Tender and payment into court.
- 299. Proceedings on redemption.
- 300. Actions to redeem and for accounting.

76A. CHEMICAL DEPENDENTS

SUBJECTS INCLUDED

Persons dependent upon or addicted to alco-
hol or narcotic or other dangerous drugs
Their rights and disabilities in general
Custody and protection of their persons and
property and legal proceedings affecting
them
Commitment or treatment of such persons,
through official or judicial action
The offense of drunkenness, either habitual
or occasional

76D. CHILD CUSTODY

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Asylums and other residential facilities not providing treatment, see **ASYLUMS AND ASSISTED LIVING FACILITIES**

Automobiles, driving while intoxicated, see **AUTOMOBILES**

Capacity to stand trial, and determination thereof, see **CRIMINAL LAW, MENTAL HEALTH**

Civil liabilities arising out of patient care, failure to protect patient from injury, and failure to protect third party from acts of patient, see **HEALTH**

Crimes by chemical dependents and intoxication as defense, see **CRIMINAL LAW, HOMICIDE** and other specific topics

Divorce for drunkenness or chemical dependency, see **DIVORCE**

Drug use or addiction as an offense, see **CONTROLLED SUBSTANCES**

Mental health generally, see **MENTAL HEALTH**

Sale of liquors to drunkards or intoxicated persons, see **INTOXICATING LIQUORS**

Temporary intoxication, disability from, see **CONTRACTS, DEEDS** and other specific topics

Testamentary capacity, see **WILLS**

I. IN GENERAL, ¶1-9.

II. COMMITMENT OR TREATMENT, ¶10-25.

I. IN GENERAL.

1. Chemical dependency and its effect in general.
2. Constitutional and statutory provisions.
3. Guardianship.
4. Criminal drunkenness or intoxication.
 - 4.1. — In general.
5. — Prosecution and punishment.

II. COMMITMENT OR TREATMENT.

10. In general.
11. Eligibility for, and persons subject to, commitment or treatment.
 - 11.1. — In general.
12. — Convicts and defendants in criminal prosecutions.

II. COMMITMENT OR TREATMENT.(Cont'd)

13. Proceedings.
 - 13.1. — In general.
14. — Criminal cases, proceedings in, in general.
15. — Consent of or acceptance by public officers.
16. — Petition or application; duty to inquire or institute proceedings.
17. — Affidavits or evidence.
18. — Notice, hearing, and determination.
19. — Examination.
20. — Counsel.
21. — Order or judgment, and record.
22. Treatment facilities and status of person committed.
23. Duration and termination of detention or treatment; further disposition of dependent.
 - 23.1. — In general.
24. — Termination before cure or rehabilitation.
25. Review of proceedings.

76D. CHILD CUSTODY

SUBJECTS INCLUDED

Child custody rights pending or following divorce or dissolution of marriage

Visitation rights of parents, grandparents, and others

Extent of custody rights

Geographical limitations imposed on custodians

Enforcement of custody rights

Interstate and international custody disputes

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Custody and access to dependent, neglected, abandoned, or delinquent children, see **INFANTS**

Issues peculiar to custody of Native American children, see **INDIANS**

76D. CHILD CUSTODY

Parent and child relationship generally, rights of parents to control their children, and duty of parents to protect and supervise their children, see PARENT AND CHILD

- I. IN GENERAL, ¶1-9.
- II. GROUNDS AND FACTORS IN GENERAL, ¶20-89.
 - (A) IN GENERAL, ¶20-37.
 - (B) FACTORS RELATING TO PARTIES SEEKING CUSTODY, ¶41-68.
 - (C) FACTORS RELATING TO CHILD, ¶75-89.
- III. INCIDENTS AND EXTENT OF CUSTODY AWARD, ¶100-107.
- IV. JOINT CUSTODY, ¶120-155.
- V. VISITATION, ¶175-231.
- VI. GEOGRAPHICAL CONSIDERATIONS, ¶260-263.
- VII. PARTICULAR STATUS OR RELATIONSHIP, ¶270-329.
 - (A) IN GENERAL, ¶270-274.5.
 - (B) GRANDPARENTS, ¶275-289.
 - (C) ADOPTION, ¶310-313.
 - (D) TERMINATION OF PARENTS' MARRIAGE, ¶320-329.
- VIII. PROCEEDINGS, ¶400-534.
 - (A) IN GENERAL, ¶400-427.
 - (B) EVIDENCE, ¶450-475.
 - (C) HEARING, ¶500-512.
 - (D) JUDGMENT, ¶521-534.
- IX. MODIFICATION, ¶550-662.
 - (A) IN GENERAL, ¶550-551.
 - (B) GROUNDS AND FACTORS, ¶552-579.
 - (C) PROCEEDINGS, ¶600-662.
 - 1. IN GENERAL, ¶600-618.
 - 2. EVIDENCE, ¶631-642.
 - 3. HEARING AND DETERMINATION, ¶650-662.
- X. INTERSTATE ISSUES, ¶700-789.
 - (A) IN GENERAL, ¶700-708.
 - (B) FOREIGN DECREES AND ORDERS, ¶715-726.
 - (C) JURISDICTION OF FORUM COURT, ¶730-753.
 - (D) PROCEEDINGS AND RELIEF, ¶762-789.
- XI. INTERNATIONAL ISSUES, ¶800-830.
- XII. ENFORCEMENT, ¶850-874.
- XIII. APPEAL OR JUDICIAL REVIEW, ¶900-924.
- XIV. COSTS, ¶940-959.
- XV. CUSTODIAL INTERFERENCE, ¶965-992.

XV. CUSTODIAL INTERFERENCE —Cont'd

- (A) IN GENERAL, ¶965-979.
- (B) PROCEEDINGS, ¶980-985.
- (C) JUDGMENT AND RELIEF, ¶986-992.

I. IN GENERAL.

1. In general.
2. Constitutional and statutory provisions.
3. — In general.
4. — Validity.
5. — Purpose.
6. — Retroactive operation.
7. Discretion.
8. Interest or role of government.
9. Authority of courts and judges.

II. GROUNDS AND FACTORS IN GENERAL.

(A) IN GENERAL.

20. In general.
21. Dependency on particular facts.
22. Persons entitled in general.
23. Death of parent.
See also, VII(B).
24. Preference for mother or father.
25. Present or previous custody.
26. "Tender years" rule.
27. Custody of siblings; split custody.
28. Managing conservatorship.
29. Material benefit to child.
30. Religion.
31. Social factors.
32. Moral factors.
33. Multiple factors.
34. Agreements, contracts, or stipulations.
35. — In general.
36. — Divorce or dissolution settlements.
37. Agreements to which child is a party.

(B) FACTORS RELATING TO PARTIES SEEKING CUSTODY.

41. In general.
42. Right of biological parent as to third persons in general.
43. Legal custody.
44. Primary caregiver.
45. Psychological parent.
46. Religion and spiritual matters.

76D. CHILD CUSTODY

II. GROUNDS AND FACTORS IN GENERAL. (Cont'd)

47. Rewarding or punishing custodian.
48. Behavior of parties in general.
49. Motives.
50. Litigation conduct.
51. Relative fitness.
52. Sexual behavior, orientation, or preference of parent.
53. — In general.
54. — Homosexuality.
55. — Effect on child.
56. Cohabitation with third party.
57. Previous interference with lawful custody or visitation.
58. Abuse or neglect of child.
59. Physical condition.
60. Use of drugs or alcohol.
61. Commission of crime.
62. Mental condition.
63. Financial resources.
64. Employment.
65. — In general.
66. — As demonstrating financial ability to support.
67. — As demonstrating inability to devote time to child-rearing.
68. Previous abandonment or relinquishment by custodian.

(C) FACTORS RELATING TO CHILD.

75. In general.
76. Welfare and best interest of child.
77. Existence of factors other than best interest of child.
78. Child's preference of custodian.
79. Age of child.
80. Sex of child.
81. Health and physical condition of child.
82. Mental or emotional condition of child.
83. Connection of child to community.
84. Continuity of custody; stability.
85. Present relationship.
86. Existing custody of non-parent.
87. Geographical considerations.
88. Education.
89. Nonmarital circumstances of birth or conception.

III. INCIDENTS AND EXTENT OF CUSTODY AWARD.

100. In general.
101. Right to control child in general.
102. Duty to control child.
103. Duty to protect child.
104. Religion.
105. Education.
106. Health care choices.
107. Discipline or punishment.

IV. JOINT CUSTODY.

120. In general.
121. Discretion.
122. Grounds in general.
123. Welfare and best interest of child.
124. Existence of factors other than best interest of child.
125. Persons entitled in general.
126. Right of biological parent as to third persons in general.
127. Ability of parents to cooperate.
128. Preference of courts for mother or father.
129. Custody of siblings.
130. Geographical considerations.
131. Education.
132. Material benefit to child.
133. Primary caregiver.
134. Behavior of parties in general.
135. Sexual behavior, orientation, or preference of party.
136. Cohabitation with third party.
137. Abuse or neglect of child.
138. Physical condition of custodian.
139. Use of drugs or alcohol by custodian.
140. Agreements, contracts, or stipulations.
141. — In general.
142. — As prerequisite to grant of joint custody.
143. Child's preference of custodian.
144. Age of child.
145. Health of child.
146. Performance of child in school.
- 146.5. Nonmarital circumstances of birth or conception.
147. Physical custody arrangements.
148. Transporting and transferring child.
149. Placement of child with third parties.

76D. CHILD CUSTODY

IV. JOINT CUSTODY.(Cont'd)

- 150. Conditions.
- 151. Control by and authority of parties.
- 152. — In general.
- 153. — Education.
- 154. — Extracurricular choices.
- 155. Employment status.

V. VISITATION.

- 175. In general.
- 176. Discretion.
- 177. Grounds in general.
- 178. Welfare and best interest of child.
- 179. Existence of factors other than best interest of child.
- 180. Right of biological parent as to third persons in general.
- 181. Ability of parties to cooperate.
- 182. Persons entitled in general.
- 183. Custody of siblings.
- 184. Geographical considerations.
- 185. Religion.
- 186. Primary caregiver.
- 187. Rewarding or punishing party.
- 188. Behavior of parties in general.
- 189. Motives.
- 190. Litigation conduct.
- 191. Sexual behavior or preference of party.
- 192. — In general.
- 193. — Homosexuals.
- 194. — Effect on child.
- 195. Cohabitation with third party.
- 196. Previous interference with lawful custody or visitation.
- 197. Abuse or neglect of child.
- 198. Physical condition of custodian.
- 199. Use of drugs or alcohol.
- 200. Commission of crime.
- 201. Mental condition.
- 202. Previous abandonment or relinquishment by custodian.
- 203. Agreements, contracts, or stipulations.
- 204. Child's preference.
- 205. Age of child.
- 206. Health and physical condition of child.
- 207. Mental health or condition of child.
- 208. Performance of child in school.
- 208.5. Nonmarital circumstances of birth or conception.

V. VISITATION.(Cont'd)

- 209. Physical custody arrangements.
- 210. — In general.
- 211. — Hours.
- 212. — Holidays.
- 213. Transporting and transferring child.
- 214. Placement of child with third parties.
- 215. Visitation conditions.
- 216. — In general.
- 217. — Supervised visitation.
- 218. — Payment of child support, attorney fees, alimony.
- 219. — Excluding other persons from being present during visitation.
- 220. — Place for visitation.
- 221. — Notice to custodial parent.
- 222. — Counseling.
- 223. — Restrictions on conduct.
- 224. — Bond.
- 225. Control by and authority of parties.
- 226. — In general.
- 227. — Religion.
- 228. — Education.
- 229. — Extracurricular choices.
- 230. — Discipline or punishment.
- 231. Employment status.

VI. GEOGRAPHICAL CONSIDERATIONS.

- 260. In general.
- 261. Removal from jurisdiction.
- 262. Construction and operation of court order.
- 263. Agreements.

VII. PARTICULAR STATUS OR RELATIONSHIP.

Matters peculiar to Native Americans, see INDIANS.

(A) IN GENERAL.

- 270. In general.
- 271. Relatives in general.
- 272. Stepparents.
- 273. Adult siblings.
- 274. In loco parentis; de facto parents.
- 274.5. Assisted reproduction; surrogate parenting.

(B) GRANDPARENTS.

- 275. In general.
- 276. Grounds and factors in general.

76D. CHILD CUSTODY

VII. PARTICULAR STATUS OR RELATIONSHIP.(Cont'd)

- 277. Preference for maternal or paternal grandparents.
- 278. Conduct or status of child's parent or custodian.
- 279. — In general.
- 280. — Abandonment by parent or custodian.
- 281. — Failure to support or provide for child.
- 282. Grandparent visitation and access to child.
Rights following adoption, see 313.
- 283. — In general.
- 284. — Grandparent rights as derivative.
- 285. — Conduct or status of child's parent or custodian.
- 286. — Objections of parent.
- 287. — Interference with parental rights.
- 288. — Parent unavailable.
- 289. — Death of parent.

(C) ADOPTION.

- 310. In general.
- 311. Visitation.
- 312. — In general.
- 313. — Grandparents.

(D) TERMINATION OF PARENTS' MARRIAGE.

- 320. In general.
- 321. Pending proceedings.
- 322. — In general.
- 323. — Power and authority of court.
- 324. — Grounds and factors.
- 325. — Visitation.
- 326. Proceedings for separate maintenance.
- 327. Annulment of marriage.
- 328. Dismissal of divorce or dissolution proceedings or failure to terminate marriage.
- 329. Decree of divorce or dissolution of marriage.

VIII. PROCEEDINGS.

(A) IN GENERAL.

- 400. In general.
- 401. Nature of child custody proceedings.
- 402. Purpose of proceedings.
- 403. Jurisdiction.

VIII. PROCEEDINGS.(Cont'd)

- 404. — In general.
- 405. — Constitutional and statutory provisions.
- 406. — Domicile of proposed custodians.
- 407. Venue.
- 408. Time for proceedings.
- 409. Parties; intervention.
- 410. Process.
- 411. Appearance.
- 412. Pleading.
- 413. — In general.
- 414. — Issues, proof and variance.
- 415. Appointment of professionals.
Appointment of counsel or guardian ad litem for child, see INFANTS.
- 416. — In general.
- 417. — Investigators.
- 418. — Mental health professionals.
- 419. Mediation, alternative dispute resolution, arbitration.
- 420. Examination of home.
- 421. Reports and recommendations.
- 422. Discovery.
- 423. — In general.
- 424. — Physical examination of persons.
- 425. — Mental examinations.
- 426. Orders of protection pending proceedings.
- 427. In camera examination of child.

(B) EVIDENCE.

- 450. In general.
- 451. Admissibility.
- 452. Burden of proof.
- 453. Presumptions.
- 454. — In general.
- 455. — Fitness.
- 456. — Misconduct or status affecting presumption.
- 457. — "Tender years" presumption.
- 458. — Presumption for mother or father.
- 459. — "Primary parent".
- 460. — Presumption in favor of parent.
- 461. — Visitation.
- 462. — Joint custody.
- 463. — Grandparents.
- 463.5. — Nonmarital circumstances of birth or conception.
- 464. — Geographical limitations.

76D. CHILD CUSTODY

VIII. PROCEEDINGS.(Cont'd)

- 465. Degree of proof.
- 466. Weight and sufficiency.
- 467. — In general.
- 468. — Disputes between parent and non-parent, in general.
- 469. — Fitness or conduct of parent.
- 470. — “Primary parent”.
- 471. — Visitation.
- 472. — Joint custody.
- 473. — Grandparents.
- 474. — Geographical limitations.
- 475. — Necessity of expert testimony.

(C) HEARING.

- 500. In general.
- 501. Joinder and consolidation.
- 502. Time for hearing.
- 503. Confidentiality of proceedings.
- 504. Reference.
- 505. Scope of inquiry.
- 506. Presence or interview of child.
- 507. Presence of parent or custodian.
- 508. Special verdict or issue submitted to jury.
- 509. Questions of law or fact.
- 510. Findings and verdict by jury.
- 511. Decision and findings by court.
- 512. New trial or rehearing.

(D) JUDGMENT.

- 521. In general.
- 522. Clarity and specificity.
- 523. Finality.
- 524. Conformity to pleadings, evidence, and verdict.
- 525. Visitation.
- 526. Amendment, clarification, opening, or vacating.
- 527. Conditions.
- 528. — In general.
- 529. — Bonds.
- 530. Relief granted.
- 531. Operation and effect.
 - (1). In general.
 - (2). Termination.
- 532. Res judicata.
- 533. Collateral estoppel and issue preclusion.
- 534. Default.

IX. MODIFICATION.

(A) IN GENERAL.

- 550. In general.
- 551. Discretion.

(B) GROUNDS AND FACTORS.

- 552. In general.
- 553. Welfare of child and material change in circumstances.
- 554. Welfare and best interest of child.
- 555. Change in circumstances or conditions.
- 556. Materiality of change.
- 557. Factors existing at time of prior adjudication.
 - (1). In general.
 - (2). Factors considered in prior adjudication.
 - (3). Factors not considered in prior adjudication.
- 558. Abuse, neglect, or abandonment of child.
- 559. Change in fitness or status of custodian in general.
- 560. Change in fitness or status of party seeking modification.
- 561. Religion.
- 562. Sexual behavior, orientation, or preference of parties.
- 562.5. Nonmarital circumstances of birth or conception.
- 563. Physical condition of parties.
- 564. Mental condition of parties.
- 565. Financial resources of parties.
- 566. Child's preference.
- 567. New partner for party.
- 568. Parent or custodian's relocation of home.
- 569. Interference with custody rights.
- 570. Agreements.
- 571. — In general.
- 572. — Validity in general.
- 573. — Validity of provisions barring modification.
- 574. — Operation and effect.
- 575. Incidents of custody in general.
- 576. Joint custody.
- 577. Visitation.
- 578. Particular status or relationship.
- 579. Grandparents.

76D. CHILD CUSTODY

(C) PROCEEDINGS.

1. IN GENERAL.

- 600. In general.
- 601. Jurisdiction.
- 602. Venue.
- 603. Change of venue.
- 604. Time for proceedings.
- 605. Parties.
- 606. Process.
- 607. Appearance.
- 608. Pleading.
- 609. — In general.
- 610. — Issues, proof and variance.
- 611. Appointment of professionals.
- 612. — In general.
- 613. — Investigators.
- 614. — Mental health professionals.
- 615. Examination of home.
- 616. Reports and recommendations.
- 617. Discovery.
- 618. Orders of protection pending proceedings.

2. EVIDENCE.

- 631. In general.
- 632. Admissibility.
- 633. Burden of proof.
- 634. Presumptions.
- 635. Degree of proof.
- 636. Weight and sufficiency.
- 637. — In general.
- 638. — Visitation.
- 639. — “Psychological” or de facto parents.
- 640. — Stepparents.
- 641. — Grandparents.
- 642. — Geographical matters.

3. HEARING AND DETERMINATION.

- 650. In general.
- 651. Time for hearing.
- 652. Reference.
- 653. Scope of inquiry.
- 654. Presence of child; in camera examination or interview.
- 655. Presence of parent or custodian.
- 656. Special verdict or issue submitted to jury.
- 657. Questions of law or fact.

IX. MODIFICATION.(Cont'd)

- 658. Findings and verdict by jury.
- 659. Decision and findings by court.
- 660. New trial or rehearing.
- 661. Judgment.
- 662. Operation and effect.

X. INTERSTATE ISSUES.

(A) IN GENERAL.

- 700. In general.
- 701. Constitutional, statutory, and regulatory provisions.
- 702. — In general.
- 703. — Purpose.
- 704. — Validity.
- 705. — Retroactive operation.
- 706. What law governs.
- 707. Preemption by federal law.
- 708. Scope of inquiry.

(B) FOREIGN DECREES AND ORDERS.

- 715. In general.
- 716. Nature of decree or order entitled to recognition.
- 717. — In general.
- 718. — Dissolution or divorce.
- 719. Full faith and credit, in general.
- 720. Validity in general.
- 721. Jurisdiction to enter decree.
- 722. Finality of foreign decree.
- 723. Duty to recognize foreign decree.
- 724. Res judicata and collateral estoppel.
- 725. Authority to modify foreign decree.
- 726. Grounds for modifying foreign decree.

(C) JURISDICTION OF FORUM COURT.

- 730. In general.
- 731. Best interests and welfare of child.
- 732. Current location of child.
- 733. Residence or domicile of child or parent.
- 734. Minimum contacts.
- 735. Significant connection.
- 736. “Home state” of child.
- 737. Wrongful conduct in general.
- 738. Removal to another state.
- 739. Agreement of parties.
- 740. Jurisdiction of particular forum courts.
- 741. — In general.
- 742. — Personal jurisdiction.

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X. INTERSTATE ISSUES.(Cont'd)

- 743. — Subject-matter jurisdiction.
- 744. Exclusive and concurrent jurisdiction of forum court.
- 745. Continuing jurisdiction.
- 746. Determination as to assumption of jurisdiction.
- 747. Discretion in assuming jurisdiction.
- 748. Pending proceeding in foreign jurisdiction.
- 749. Jurisdiction of foreign tribunal.
- 750. Yielding of jurisdiction by foreign tribunal.
- 751. Convenience of forum.
- 752. Communication with foreign tribunal.
- 753. Emergency jurisdiction.

(D) PROCEEDINGS AND RELIEF.

- 762. In general.
- 763. Venue.
- 764. Time for proceedings.
- 765. Parties; intervention.
- 766. Process.
- 767. Appearance.
- 768. Pleading.
- 769. — In general.
- 770. — Issues, proof and variance.
- 771. Appointment of investigators.
- 772. Evidence.
- 773. — In general.
- 774. — Admissibility.
- 775. — Burden of proof.
- 776. — Presumptions.
- 777. — Degree of proof.
- 778. — Weight and sufficiency.
- 779. Hearing.
- 780. Findings.
- 781. Judgment and relief.
- 782. — In general.
- 783. — Disposition of child.
- 784. — Visitation and joint custody.
- 785. — Conditions.
- 786. — Stay of proceedings in forum.
- 787. — Stay of proceedings in foreign tribunal.
- 788. Operation and effect.
- 789. Modification.

XI. INTERNATIONAL ISSUES.

- 800. In general.
- 801. What law governs.
- 802. Constitutional and statutory provisions and treaties.
- 803. Grounds and factors in general.
- 804. Habitual residence.
- 805. Recognition of foreign decree.
- 806. Grave risk.
- 807. Acquiescence to removal.
- 808. Return of child.
- 809. Wrongful retention or removal.
- 810. Defenses.
- 811. Settled in environment.
- 812. Best interests of child.
- 813. Abandonment.
- 814. Proceedings in general.
- 815. State or federal court; removal.
- 816. Jurisdiction.
- 817. Venue.
- 818. Pleading.
- 819. Process.
- 820. Evidence.
- 821. — In general.
- 822. — Admissibility.
- 823. — Burden of proof.
- 824. — Presumptions.
- 825. — Degree of proof.
- 826. — Weight and sufficiency.
- 827. Hearing.
- 828. Findings.
- 829. Judgment.
- 830. Modification.

XII. ENFORCEMENT.

- 850. In general.
- 851. Contempt.
- 852. — In general.
- 853. — Excuses and defenses.
- 854. — Visitation.
- 855. Jurisdiction.
- 856. Venue.
- 857. Time for proceedings.
- 858. Parties.
- 859. Process.
- 860. Appearance.
- 861. Pleading.
- 862. — In general.
- 863. — Issues, proof and variance.

76D. CHILD CUSTODY

XII. ENFORCEMENT.(Cont'd)

- 864. Evidence.
- 865. — In general.
- 866. — Admissibility.
- 867. — Burden of proof.
- 868. — Presumptions.
- 869. — Degree of proof.
- 870. — Weight and sufficiency.
- 871. Hearing.
- 872. Judgment or order.
- 873. Operation and effect of judgment or order.
- 874. Relief granted.

XIII. APPEAL OR JUDICIAL REVIEW.

- 900. In general.
- 901. Jurisdiction.
- 902. Decisions reviewable.
- 903. Right of review and parties.
- 904. Presentation and reservation of grounds of review.
- 905. Transfer of cause and proceedings in general.
- 906. Effect of appeal.
- 907. Record.
- 908. Assignment of errors and briefs.
- 909. Dismissal.
- 910. — In general.
- 911. — Mootness of appeal.
- 912. Hearing and rehearing.
- 913. Review.
- 914. — In general.
- 915. — Matters or evidence considered.
- 916. — Questions considered.
- 917. — Mootness of issues.
- 918. — Estoppel to raise particular issue.
- 919. — Trial de novo.
- 920. — Presumptions.
- 921. — Discretion.
 - (1). In general.
 - (2). Joint custody.
 - (3). Visitation.
 - (4). Modification.
 - (5). Grandparents.
- 922. — Questions of fact and findings of court.
 - (1). In general.
 - (2). Credibility of witnesses.
 - (3). Joint custody.

XIII. APPEAL OR JUDICIAL REVIEW.(Cont'd)

- (4). Visitation.
 - (5). Modification.
 - (6). Grandparents.
- 923. — Harmless error.
 - (1). In general.
 - (2). Joint custody.
 - (3). Visitation.
 - (4). Modification.
 - (5). Grandparents.
- 924. Determination and disposition of cause.

XIV. COSTS.

- 940. In general.
- 941. Discretion.
- 942. Grounds and defenses in general.
- 943. Attorney fees.
- 944. Expert witnesses.
- 945. Professionals.
- 946. Amount.
- 947. — In general.
- 948. — Professionals.
- 949. — Attorney fees.
- 950. Proceedings in general.
- 951. Evidence.
- 952. — In general.
- 953. — Necessity of expert testimony.
- 954. Hearing.
- 955. Findings.
- 956. Decision and order.
- 957. Operation and effect.
- 958. Modification.
- 959. Enforcement.

XV. CUSTODIAL INTERFERENCE.

(A) IN GENERAL.

- 965. In general.
- 966. Existence of cause of action.
- 967. — In general.
- 968. — Alienation of affections.
- 969. Elements, grounds, and defenses.
- 970. — In general.
- 971. — Right to custody.
- 972. — Knowledge or notice of right to custody.
- 973. — Injury to plaintiff.
- 974. — Knowledge or participation of parent or other alleging right to custody.

76D. CHILD CUSTODY

XV. CUSTODIAL INTERFERENCE.(Cont'd)

- 975. — Consent of child.
- 976. — Privilege.
- 977. Persons entitled to sue.
- 978. — In general.
- 979. — Waiver by claim of wages.

(B) PROCEEDINGS.

- 980. In general.
- 981. Nature of action.
- 982. Pleadings.
- 983. Evidence.
- 984. Hearing.
- 985. Findings.

(C) JUDGMENT AND RELIEF.

- 986. In general.
- 987. Judgment.
- 988. Damages.
- 989. — In general.
- 990. — Emotional and mental anguish.
- 991. — Loss of wages, services, etc..
- 992. — Exemplary damages.

76E. CHILD SUPPORT

SUBJECTS INCLUDED

- Support of children by parents or other responsible persons
- Duties of stepparents and grandparents as to child support
- Child support obligations pending or following divorce or dissolution of marriage
- Abandonment and neglect to support
- Enforcement of child support obligations

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

- Actions for recovery of public assistance benefits paid, see PUBLIC ASSISTANCE
- Actions for the recovery of federal disability benefits paid, see SOCIAL SECURITY
- Effect of bankruptcy, see BANKRUPTCY

Government assistance to needy and dependent children, see PUBLIC ASSISTANCE

Support obligation upon termination of parental rights, see INFANTS

Support obligations as to abused, dependent, abandoned children, see also INFANTS

Support obligations as to delinquent or unruly children, see INFANTS

Support of Native American children under laws and treaties peculiar to them, see INDIANS

I. IN GENERAL, ¶1-11.

II. DUTY TO SUPPORT IN GENERAL, ¶20-37.

III. FACTORS CONSIDERED, ¶40-125.

(A) IN GENERAL, ¶40-63.

(B) FACTORS RELATING TO CUSTODIANS AND OBLIGORS, ¶70-99.

(C) FACTORS RELATING TO CHILD, ¶100-125.

IV. AMOUNT AND INCIDENTS OF AWARD, ¶140-165.

V. PROCEEDINGS, ¶170-226.

(A) IN GENERAL, ¶170-189.

(B) EVIDENCE, ¶190-202.

(C) HEARING, ¶210-216.

(D) JUDGMENT, ¶220-226.

VI. MODIFICATION, ¶230-364.

(A) IN GENERAL, ¶230-235.

(B) PARTICULAR FACTORS AND GROUNDS, ¶236-307.

1. IN GENERAL, ¶236-244.

2. FACTORS RELATING TO OBLIGORS, ¶250-266.

3. FACTORS RELATING TO CUSTODIAN, ¶270-285.

4. FACTORS RELATING TO CHILD, ¶290-307.

(C) PROCEEDINGS, ¶320-343.

(D) AMOUNT AND INCIDENTS OF AWARD, ¶350-364.

VII. TERMINATION, ¶375-409.

VIII. PAYMENT, ¶425-431.

IX. ENFORCEMENT, ¶440-498.

X. INTERSTATE ISSUES, ¶500-510.

XI. INTERNATIONAL ISSUES, ¶525-531.

XII. APPEAL OR JUDICIAL REVIEW, ¶535-559.

XIII. COSTS, ¶600-619.

XIV. ABANDONMENT OR NEGLECT TO SUPPORT, ¶650-669.

76E. CHILD SUPPORT

I. IN GENERAL.

1. In general.
2. Constitutional and statutory provisions.
3. — In general.
4. — Validity.
5. — Purpose.
6. — Retroactive effect.
7. Purpose of child support.
8. Nature of support awarded.
9. Discretion.
10. Interest or role of government.
11. Authority of courts and judges.

II. DUTY TO SUPPORT IN GENERAL.

20. In general.
21. Welfare of child.
22. Obligation of parents.
23. — In general.
24. — Duty of father.
25. — Duty of mother.
26. — Equality of duty of mother and father.
27. Other particular relationships.
28. — In general.
29. — Grandparents.
30. — Stepparents.
31. — In loco parentis; nonbiological parent.
32. Effect of custody.
Effect of custody award upon divorce or dissolution of marriage, see also ¶60.
33. Adopted children.
34. Nonmarital children; adjudicated parents.
35. — In general.
36. — Duty of father.
37. — Duty of mother.

III. FACTORS CONSIDERED.

(A) IN GENERAL.

40. In general.
41. Determination dependent on facts and circumstances of each case.
42. Separation of parents.
43. Contracts relating to support.
44. — In general.
45. — Duty and authority of court.
46. — Effect on child.
47. — Effect on support obligation.

III. FACTORS CONSIDERED.(Cont'd)

48. — Ability to assume obligation beyond that which court may impose.
49. — Ambiguity or vagueness.
50. — Construction in general.
51. — Guidelines.
52. — Education.
53. — Tax exemptions.
54. — Merger of agreement and judgment.
55. Reimbursement to person providing support.
56. Divorce, dissolution of marriage, or other proceeding pending.
57. Effect of divorce, dissolution of marriage, or annulment.
58. — In general.
59. — Judgment silent as to support duty.
60. — Effect of custody award.
61. — Effect of support award on further liability for support.
62. Needs of child and ability of parent to pay.
63. Assisted reproduction; surrogate parenting.

(B) FACTORS RELATING TO CUSTODIANS AND OBLIGORS.

See ¶62 for both needs of child and ability of obligor to pay.

70. In general.
71. Personal condition.
72. — In general.
73. — Age.
74. — Health; physical disabilities.
75. — Mental condition.
76. Misconduct.
77. — In general.
78. — Causing need for additional support.
79. — Squandering resources.
80. Fault for divorce or dissolution of marriage.
81. Deprivation of visitation or custody.
82. Financial resources in general.
83. Expenses and financial strain.
Medical and educational expenses as to child in need of support, see ¶112 and 115.
84. Other support obligations.
85. Assets, investments, and holdings.
86. Income.
87. — In general.

76E. CHILD SUPPORT

III. FACTORS CONSIDERED.(Cont'd)

- 88. — Voluntary unemployment or under-employment.
- 89. — Imputed income of obligor.
- 90. — Imputed income of custodian.
- 91. — Calculation.
- 92. Welfare benefits.
- 93. Retirement benefits.
- 94. Social security benefits.
- 95. Disability benefits.
- 96. Workers' compensation benefits.
- 97. Income or wealth of cohabitant, partner, or new spouse.
- 98. Lotteries and gambling winnings.
- 99. Miscellaneous payments received.

(C) FACTORS RELATING TO CHILD.

See §62 for both needs of child and ability of obligor to pay.

- 100. In general.
- 101. Age.
- 102. — In general.
- 103. — Adult children.
- 105. Income.
- 106. Social security benefits paid to or for child.
- 107. Wealth.
- 108. Child's estate or trust.
- 109. Health.
- 110. — In general.
- 111. — Adult children.
- 112. Medical expenses.
- 113. — In general.
- 114. — Adult children.
- 115. Education.
- 116. — In general.
- 117. — Private school.
- 118. — Religious school.
- 119. — Post-secondary education.
- 120. — Adult children.
- 121. Day care expenses.
- 122. Extracurricular expenses.
- 123. Misconduct of child.
- 124. Child's counsel fees.
- 125. Actions of child inconsistent with maintaining relation.

IV. AMOUNT AND INCIDENTS OF AWARD.

- 140. In general.
 - (1). In general.

IV. AMOUNT AND INCIDENTS OF AWARD.(Cont'd)

(2). Discretion.

- 141. Tax consequences.
- 142. Validity of guidelines.
- 143. Applicability of guidelines.
- 144. Retroactive effect of guidelines.
- 145. Incomes outside guidelines range.
- 146. Construction, operation, and effect of guidelines.
- 147. Adjustments to guidelines.
- 148. Exceptions and deviations from guidelines in general.
- 149. Extraordinary expenses in general.
- 150. Time of taking effect in general.
- 150.1. Time of taking effect as to nonmarital children.
- 150.2. Birth expenses.
- 151. Amount of award pending divorce or dissolution proceedings.
- 152. Security for payment in general.
- 153. Trusts.
- 154. Insurance.
- 155. — In general.
- 156. — Life insurance on obligor.
- 158. — Insurance on child.
- 159. Excessiveness in general.
- 160. Inadequacy in general.
- 161. Automatic or built-in adjustments.
- 162. — In general.
- 163. — Inflation.
- 164. — Need for definiteness; validity.
- 165. Credits and offsets in general.

V. PROCEEDINGS.

(A) IN GENERAL.

- 170. In general.
- 171. Nature of child support proceedings.
- 172. Jurisdiction.
- 173. — In general.
- 174. — Domicile of obligor.
- 175. — Domicile of child.
- 176. Venue.
- 177. Time for proceedings.
- 178. Parties.
- 179. Standing.
- 180. Process.
- 181. Discovery.
- 182. — In general.

76E. CHILD SUPPORT

V. PROCEEDINGS.(Cont'd)

- 183. — Financial records and reports.
- 184. — Income tax returns.
- 186. Pleading.
- 187. — In general.
- 188. — Issues, proof, and variance.
- 189. Administrative proceedings.

(B) EVIDENCE.

- 190. In general.
- 191. Admissibility.
- 192. Burden of proof.
- 193. Presumptions.
- 194. — In general.
- 195. — Income of obligor.
- 196. — Guidelines.
- 197. Degree of proof.
- 198. Weight and sufficiency.
- 199. — In general.
- 200. — Needs of child.
- 201. — Ability of obligor to pay.
- 202. — Amount.

(C) HEARING.

- 210. In general.
- 211. Reference.
- 212. Questions of law or fact.
- 213. Findings and verdict by jury.
- 214. Decision and findings by court.
- 215. Decision, findings, or verdict as to guidelines.
- 216. New trial or rehearing.

(D) JUDGMENT.

- 220. In general.
- 221. Amendment and clarification.
- 222. Conditions.
- 223. Relief granted.
- 224. Operation and effect.
- 224.1. — In general.
- 224.2. — As to parentage.
- 225. Res judicata.
- 226. Collateral estoppel and issue preclusion.

VI. MODIFICATION.

Outright termination, see VII; interstate or international issues, see X and XI.

(A) IN GENERAL.

- 230. In general.

VI. MODIFICATION.(Cont'd)

- 231. Discretion.
- 232. Power to modify.
- 233. Necessity of change in circumstances.
- 234. Materiality of change.
- 235. Matters already considered.

(B) PARTICULAR FACTORS AND GROUNDS.

1. IN GENERAL.

- 236. In general.
- 237. Separation of parents.
- 238. Contracts relating to support.
- 239. — In general.
- 240. — Effect of previous agreement.
- 241. — Effect of contractual provision barring modification.
- 242. — Agreement to modify.
- 243. Reimbursement to person providing support.
- 244. Divorce, dissolution of marriage, or other proceeding pending.

2. FACTORS RELATING TO OBLIGORS.

- 250. In general.
- 251. Health; physical disabilities.
- 252. Mental condition.
- 253. Misconduct.
- 254. Financial condition in general.
- 255. Other support obligations.
- 256. Assets, investments, and holdings.
- 257. Income.
- 258. — In general.
- 259. — Voluntary unemployment or underemployment.
- 260. — Imputed income.
- 261. — Calculation.
- 262. Social security benefits.
- 263. Disability benefits.
- 264. Workers' compensation benefits.
- 265. Income or wealth of cohabitant, partner, or new spouse.
- 266. Miscellaneous payments received.

3. FACTORS RELATING TO CUSTODIAN.

- 270. In general.
- 271. Health; disabilities.
- 272. Misconduct.
- 273. Deprivation of custody and visitation violations.

76E. CHILD SUPPORT

VI. MODIFICATION.(Cont'd)

- 274. Financial condition in general.
- 275. Assets, investments, and holdings.
- 276. Income.
- 277. — In general.
- 278. — Voluntary unemployment or underemployment.
- 279. — Imputed income.
- 280. — Calculation.
- 281. Welfare benefits.
- 282. Social security benefits.
- 283. Income or wealth of paramour, cohabitant, or new spouse.
- 284. Miscellaneous payments received.
- 285. Other support obligations.

4. FACTORS RELATING TO CHILD.

- 290. In general.
- 291. Age of child.
- 292. — In general.
- 293. — Adult children.
- 294. Health.
- 295. Income.
- 296. Social security benefits paid to or for child.
- 297. Wealth.
- 298. Medical expenses.
- 299. — In general.
- 300. — Mental health.
- 301. Education.
- 302. — In general.
- 303. — Private school.
- 304. — Post-secondary education.
- 305. Day care expenses.
- 306. Actions of child inconsistent with maintaining relation.
- 307. Extracurricular activities.

(C) PROCEEDINGS.

- 320. In general.
- 321. Jurisdiction.
- 322. Venue.
- 323. Time for proceedings.
- 324. Parties.
- 325. Intervention.
- 326. Process.
- 327. Appearance.
- 328. Reports and recommendations.
- 329. Discovery.

VI. MODIFICATION.(Cont'd)

- 330. Pleading.
- 331. — In general.
- 332. — Issues, proof and variance.
- 333. Evidence.
- 334. — In general.
- 335. — Admissibility.
- 336. — Burden of proof.
- 337. — Presumptions.
- 338. — Degree of proof.
- 339. — Weight and sufficiency.
 - (1). In general.
 - (2). Change in circumstances.
 - (3). Obligor's income or financial condition.
 - (4). Custodian's income or financial condition.
 - (5). Amount.
- 340. Hearing.
- 341. Findings.
- 342. Judgment.
- 343. Operation and effect.

(D) AMOUNT AND INCIDENTS OF AWARD.

- 350. In general.
- 351. Tax consequences.
- 352. Validity of guidelines.
- 353. Retroactive effect of guidelines.
- 354. Applicability of guidelines.
- 355. Incomes outside guidelines range.
- 356. Construction, operation, and effect of guidelines.
- 357. Exceptions and deviations from guidelines in general.
- 358. Expenses.
 - (1). In general.
 - (2). Medical.
- 359. Amount of award pending divorce or dissolution proceedings.
- 360. Modification of security for payment.
- 361. Insurance.
- 362. Excessiveness of amount.
- 363. Inadequacy of amount.
- 364. Time of taking effect; retrospective modification.

VII. TERMINATION.

Termination of support duty upon adoption, see §33.

- 375. In general.

76E. CHILD SUPPORT

VII. TERMINATION.(Cont'd)

- 376. Ability of non-obligor parent or custodian to support child.
- 377. — In general.
- 378. — Marriage or other cohabitation arrangements.
- 379. Death of obligor.
- 380. Military service of obligor or custodian.
- 381. Agreements, contracts, and stipulations.
- 382. — In general.
- 383. — Overriding state definition of majority.
- 384. — Abandoning visitation, etc. in exchange for termination of obligation.
- 385. — Education.
- 386. Emancipation of child in general.
- 387. Marriage of child.
- 388. Military service of child.
- 389. Age.
- 390. — In general.
- 391. — Construction and operation of decree.
- 392. — Change in state age of majority.
- 393. Education.
- 394. Deprivation of custody or visitation rights.
- 395. Abandonment of relation with non-obligor parent or custodian.
- 396. Assumption of custody by obligor.
- 397. Misconduct of non-obligor adult.
- 398. Life insurance.
- 399. Proceedings.
- 400. Evidence.
- 401. — In general.
- 402. — Admissibility.
- 403. — Burden of proof.
- 404. — Presumptions.
- 405. — Degree of proof.
- 406. — Weight and sufficiency.
- 407. Hearing.
- 408. Findings.
- 409. Judgment.

Includes clarity of original order as to date of expiration or termination.

VIII. PAYMENT.

- 425. In general.
- 426. Timeliness of payment.
- 427. Security to ensure payment.
- 428. Insurance coverage.

VIII. PAYMENT.(Cont'd)

- 429. Amount.
- 430. Form of payment.
- 431. Evidence.

IX. ENFORCEMENT.

Modification upon noncompliance, see VI.

- 440. In general.
- 441. Discretion.
- 442. Garnishment and wage execution.
- 443. Contempt.
- 444. — In general.
- 445. — Purging contempt.
- 446. — Existence of other remedy.
- 447. Arrearages; retroactive modification.
- 448. — In general.
- 449. — Vesting of right to unpaid support.
- 450. — Amount owed.
- 451. — Limitations and laches.
- 452. — Estoppel and waiver.
Exclude agreement, see 456; exclude misconduct if waiver or estoppel absent, see 457.
- 453. — Interest.
- 454. — Credits for amounts paid or property transferred.
- 455. — Existence of other remedy.
- 456. — Agreements.
- 457. — Conduct and living arrangement of custodian.
- 458. — Circumstances of obligor.
- 459. — Other particular defenses or grounds for reduction of arrearages.
- 460. — Emancipation or majority.
- 461. — Increase in amount owed.
- 462. Execution.
- 463. Liens.
- 464. Attachment.
- 465. Administrative enforcement; orders and proceedings.
- 466. License suspension or revocation.
- 467. Tax withholding.
- 468. Child custody and visitation.
- 469. Proceedings in general.
- 470. Jurisdiction.
- 471. Venue.
- 472. Time for proceedings.
- 473. Parties.
- 474. Process and notice.
- 475. Appearance.
- 476. Examinations and reports.

76E. CHILD SUPPORT

IX. ENFORCEMENT.(Cont'd)

- 477. Discovery.
- 478. Pleading.
- 479. — In general.
- 480. — Issues, proof and variance.
- 481. Evidence.
- 482. — In general.
- 483. — Admissibility.
- 484. — Burden of proof.
- 485. — Presumptions.
- 486. — Degree of proof.
- 487. — Weight and sufficiency.
- 488. Hearing.
- 489. — In general.
- 490. — Necessity of and right to a hearing.
- 491. — Counsel.
- 492. — Questions of law and fact.
- 493. — Instructions.
- 494. Findings and verdict.
- 495. Judgment and order.
- 496. — In general.
- 497. — Incarceration.
- 498. Operation and effect.

X. INTERSTATE ISSUES.

- 500. In general.
- 501. Constitutional and statutory provisions.
 - (1). In general.
 - (2). Validity.
 - (3). Purpose.
 - (4). Retroactive operation.
- 502. What law governs.
- 503. Preemption.
- 504. Discretion.
- 505. Duty to support.
- 506. Foreign decree or proceeding.
 - (1). In general.
 - (2). Full faith and credit in general.
 - (3). Validity of foreign judgment or decree.
 - (4). Jurisdiction of foreign tribunal to enter award.
 - (5). Finality of foreign decree.
- 507. Jurisdiction of forum court to act.
- 508. Enforcement of foreign judgments.
 - (1). In general.
 - (2). Grounds and defenses.
 - (3). Proceedings in general.
 - (4). Process.

X. INTERSTATE ISSUES.(Cont'd)

- (5). Evidence.
- 509. Modification of foreign judgments.
 - (1). In general.
 - (2). Grounds and defenses.
 - (3). Proceedings.
 - (4). Evidence.
- 510. Stipulations and agreements.

XI. INTERNATIONAL ISSUES.

- 525. In general.
- 526. Discretion.
- 527. Treaties and constitutional, statutory, and other regulatory provisions.
- 528. — In general.
- 529. — Validity.
- 530. — Purpose.
- 531. — Retroactive operation.

XII. APPEAL OR JUDICIAL REVIEW.

- 535. In general.
- 536. Jurisdiction.
- 537. Decisions reviewable.
- 538. Right of review and parties.
- 539. Presentation and reservation of grounds of review.
- 540. Transfer of cause and proceedings in general.
- 541. Effect of appeal.
- 542. Record.
- 543. Assignment of errors and briefs.
- 544. Dismissal.
- 545. — In general.
- 546. — Mootness of appeal.
- 547. Hearing and rehearing.
- 548. Review.
- 549. — In general.
- 550. — Matters or evidence considered.
- 551. — Questions considered.
- 552. — Mootness of issues.
- 553. — Estoppel to raise particular issue.
- 554. — Trial de novo.
- 555. — Presumptions and burden of proof.
- 556. — Discretion.
 - (1). In general.
 - (2). Amount.
 - (3). Modification.
 - (4). Termination.

78. CIVIL RIGHTS

XII. APPEAL OR JUDICIAL REVIEW.(Cont'd)

- (5). Enforcement; arrearages; contempt.
- 557. — Questions of fact and findings of court.
 - (1). In general.
 - (2). Credibility of witnesses.
 - (3). Amount.
 - (4). Modification.
 - (5). Termination.
 - (6). Enforcement; arrearages; contempt.
- 558. — Harmless error.
 - (1). In general.
 - (2). Amount.
 - (3). Modification.
 - (4). Enforcement; arrearages; contempt.
- 559. Determination and disposition of cause.

XIII. COSTS.

- 600. In general.
- 601. Discretion.
- 602. Grounds and defenses in general.
- 603. Attorney fees.
- 604. Expert witnesses.
- 605. Professionals.
- 606. Amount.
- 607. — In general.
- 608. — Professionals and experts.
- 609. — Attorney fees.
- 610. Proceedings in general.
- 611. Evidence.
- 612. — In general.
- 613. — Necessity of expert testimony.
- 614. Hearing.
- 615. Findings.
- 616. Decision or order.
- 617. Operation and effect of decision or order.
- 618. Modification.
- 619. Enforcement.

XIV. ABANDONMENT OR NEGLECT TO SUPPORT.

- 650. In general.
- 651. Nature of proceeding.
- 652. Abandonment or neglect to support.
- 653. — In general.

XIV. ABANDONMENT OR NEGLECT TO SUPPORT.(Cont'd)

- 654. — Ability to pay.
- 655. Jurisdiction.
- 656. Indictment and information.
- 657. Evidence.
- 658. — In general.
- 659. — Admissibility.
- 660. — Burden of proof.
- 661. — Presumptions.
- 662. — Degree of proof.
- 663. — Weight and sufficiency.
- 664. Hearing.
- 665. — In general.
- 666. — Questions of law and fact.
- 667. — Instructions.
- 668. — Verdict and findings.
- 669. Judgment and remedy.

78. CIVIL RIGHTS

SUBJECTS INCLUDED

General rights of personal nature; more particularly those rights protected by civil rights statutes

Prohibitions against discrimination because of race, color, sex, or other reasons

Federal and state remedies for violations of such rights or prohibitions

Federal and state remedies for violations of constitutional rights

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Bivens actions, see UNITED STATES

Conspiracies to violate civil rights, see CONSPIRACY

Constitutional rights, substance and scope of, see CONSTITUTIONAL LAW

Criminal prosecutions, restrictions on procedure, see CRIMINAL LAW

Equal pay statutes, see LABOR AND EMPLOYMENT

Federal courts, jurisdiction and venue, see FEDERAL COURTS

78. CIVIL RIGHTS

Indian Civil Rights Act, see INDIANS ⇨213

Interstate commerce, establishments and operations affecting, see COMMERCE

Jury, right of trial by, see JURY

Privacy, invasion of, see TORTS

School desegregation and affirmative rights of disabled schoolchildren, see EDUCATION II(F) and II(G)

Voting rights, see ELECTION LAW

I. RIGHTS PROTECTED AND DISCRIMINATION PROHIBITED IN GENERAL, ⇨1001-1100.

II. EMPLOYMENT PRACTICES, ⇨1101-1300.

III. FEDERAL REMEDIES IN GENERAL, ⇨1301-1500.

IV. REMEDIES UNDER FEDERAL EMPLOYMENT DISCRIMINATION STATUTES, ⇨1501-1700.

V. STATE AND LOCAL REMEDIES, ⇨1701-1800.

VI. OFFENSES AND PENALTIES, ⇨1801-1809.

I. RIGHTS PROTECTED AND DISCRIMINATION PROHIBITED IN GENERAL.

- 1001. In general.
- 1002. Constitutional and statutory provisions.
- 1003. — In general.
- 1004. — Purpose and construction in general.
- 1005. — Power to enact and validity.
- 1006. — Retrospective application.
- 1007. Bases of discrimination and classes protected.
- 1008. — In general.
- 1009. — Race, color, ethnicity, or national origin.
- 1010. — Religion.
- 1011. — Sex.
- 1012. — Sexual orientation or identity.
- 1013. — Marital, parental, or familial status.
- 1014. — Age.
- 1015. — Other particular bases or classes.
- 1016. Handicap, disability, or illness.
- 1017. — In general.
- 1018. — Elements of discrimination claims in general.

I. RIGHTS PROTECTED AND DISCRIMINATION PROHIBITED IN GENERAL.(Cont'd)

- 1019. — Who is disabled; what is disability.
 - (1). In general.
 - (2). Impairments in general; major life activities.
 - (3). Particular conditions, limitations, and impairments.
 - (4). Record of impairment.
 - (5). Perceived disability; “regarded as” claims.
- 1020. — Accommodations in general.
- 1021. — Physical access and mobility; carriers.
See also CARRIERS ⇨262.5.
- 1022. — Alcohol or drug use.
- 1023. — Communicable diseases.
- 1024. — Human immuno-deficiency virus and acquired immune deficiency syndrome.
- 1025. — Association or relationship with the disabled.
- 1026. Rights protected.
- 1027. — In general.
- 1028. — Due process of law and equal protection.
See also CONSTITUTIONAL LAW XXVI, XXVII.
- 1029. — Other particular rights.
- 1030. Acts or conduct causing deprivation.
- 1031. — In general.
- 1032. — Particular cases and contexts.
- 1033. — Discrimination in general.
 - (1). In general.
 - (2). Particular cases and contexts.
 - (3). Affirmative action and reverse discrimination.
- 1034. — Common law or state law torts.
- 1035. — Assault and battery; personal injury and use of force.
- 1036. — Threats, intimidation, and harassment.
- 1037. — Malicious prosecution and false imprisonment; mental health commitments.
Criminal prosecutions and false arrests, see ⇨1088(4), 1088(5).
- 1038. — Defamation.

78. CIVIL RIGHTS

I. RIGHTS PROTECTED AND DISCRIMINATION PROHIBITED IN GENERAL.(Cont'd)

- 1039. — Failure to act or protect or to enforce law.
- 1040. Privacy.
See also CONSTITUTIONAL LAW XI.
- 1041. Contracts, trade, and commercial activity.
- 1042. Insurance.
Public insurance programs, see ¶1051. Housing discrimination, see ¶1080.
- 1043. Public accommodations.
- 1044. — In general.
- 1045. — Medical facilities and services.
Public services and public insurance programs, see ¶1051.
- 1046. — Inns and restaurants; bars and taverns.
- 1047. — Theaters and places of exhibition or entertainment.
- 1048. — Public conveyances.
- 1049. — Place of business or public resort.
- 1049.5. — Websites and online services; internet.
 - (1). In general.
 - (2). Discrimination by reason of handicap, disability, or illness.
- 1050. — Private clubs or associations.
- 1051. Public services, programs, and benefits.
Public housing, see ¶1082.
- 1052. — In general.
- 1053. — Discrimination by reason of handicap, disability, or illness.
See also ¶1016.
- 1054. Public facilities.
- 1055. Publicly assisted programs.
Particular contexts, see also other lines in CIVIL RIGHTS I.
- 1056. Courts and judicial proceedings.
- 1057. Child custody, support, and protection; parental rights.
- 1058. Jury service.
- 1059. Education.
- 1060. — In general.
- 1061. — Admission.
School desegregation, see EDUCATION II(F).
- 1062. — Regulation of conduct; discipline.
- 1063. — Extracurricular activities; athletics.
- 1064. — Harassment; hostile environment.
- 1065. — Assault and abuse; use of force.

I. RIGHTS PROTECTED AND DISCRIMINATION PROHIBITED IN GENERAL.(Cont'd)

- 1066. — Sexual assault and abuse; sexual activity.
- 1067. — Sex discrimination.
 - (1). In general.
 - (2). Extracurricular activities; athletics.
 - (3). Sexual harassment; sexually hostile environment.
See also ¶1066.
 - (4). Discrimination against males.
 - (5). Other particular cases and contexts.
- 1068. — Discrimination by reason of sexual orientation or identity.
- 1069. — Discrimination by reason of handicap, disability, or illness.
See also ¶1016. Affirmative rights of disabled schoolchildren, see EDUCATION II(G).
- 1070. — Other particular cases and contexts.
- 1071. Property rights.
- 1072. Permits, licenses, and certifications.
- 1073. Zoning, building, and planning; land use.
Housing discrimination, see ¶1081.
- 1074. Housing.
- 1075. — In general.
- 1076. — Sale; vendor and purchaser.
- 1077. — Lease or rental; landlord and tenant.
- 1077.5. — Condominiums and cooperative apartments; common interest communities.
- 1078. — Advertising.
- 1079. — Loans and financing.
- 1080. — Insurance.
- 1081. — Public regulation; zoning.
- 1082. — Public housing; public assistance.
See also LANDLORD AND TENANT X and UNITED STATES I(H).
- 1083. — Discrimination by reason of handicap, disability, or illness.
See also ¶1016.
- 1084. — Discrimination by reason of marital, parental, or familial status.
- 1085. — Interference, coercion, or intimidation; retaliation.
- 1086. — Harassment; hostile environment.

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I. RIGHTS PROTECTED AND DISCRIMINATION PROHIBITED IN GENERAL.(Cont'd)

1087. — Other particular cases and contexts.
1088. Police, investigative, or law enforcement activities.
Fourth Amendment issues, see ARREST, SEARCHES AND SEIZURES. Equal protection and due process, see CONSTITUTIONAL LAW ¶3780 et seq., 4520 et seq.
- (1). In general.
- (2). Use of force in general.
- (3). Searches and seizures.
- (4). Arrest and detention.
- (5). Criminal prosecutions.
1089. Prisons.
Eighth Amendment issues, see SENTENCING AND PUNISHMENT VII. Equal protection and due process, see CONSTITUTIONAL LAW ¶3780 et seq., 4520 et seq.
1090. — In general.
1091. — Medical care and treatment.
1092. — Discipline and classification; grievances.
1093. — Use of force; protection from violence.
1094. — Access to courts.
1095. — Transfer.
1096. — Release.
1097. — Parole.
1098. — Other particular cases and contexts.

II. EMPLOYMENT PRACTICES.

1101. In general.
1102. Constitutional and statutory provisions.
1103. — In general.
1104. — Purpose and construction in general.
1105. — Power to enact and validity.
1106. — Retrospective application.
1107. Discrimination by reason of race, color, ethnicity, or national origin, in general.
1108. Employers and employees affected.
Vicarious and respondeat superior liability, see ¶1334 et seq., 1528, 1736.
1109. — In general.
1110. — Nature and existence of employment relationship.
1111. — Number of employees.
1112. — Multiple entities; third parties.
Corporate successor liability, see CORPORATIONS AND BUSINESS ORGANIZATIONS.

II. EMPLOYMENT PRACTICES.(Cont'd)

1113. — Individuals as “employers”.
1114. — Exemptions.
Religious organizations, see also ¶1163.
1115. — Territorial limitations.
1116. — Public employers and employees.
- (1). In general.
- (2). Individuals as “employers”.
- (3). Exemptions.
1117. — Publicly assisted employers.
1118. Practices prohibited or required in general; elements.
1119. Adverse actions in general.
1120. Particular cases.
1121. Hiring.
1122. Discharge or layoff.
1123. Constructive discharge.
1124. Public employment.
Employers and employees affected, see ¶1116.
1125. — In general.
1126. — Particular cases.
1127. — Hiring.
1128. — Discharge or layoff.
1129. Education, employment in.
Employers and employees affected, see ¶1108.
1130. — In general.
1131. — Particular cases.
1132. — Hiring.
1133. — Discharge or layoff.
1134. — Tenure.
1135. Promotion, demotion, and transfer.
1136. Compensation and benefits.
1137. Motive or intent; pretext.
1138. Disparate treatment.
1139. “Pattern or practice” claims.
1140. Disparate impact.
1141. Seniority or merit system.
1142. Educational requirements; ability tests.
1143. Harassment; work environment.
See also ¶1123, 1161, 1181, 1194, 1198, 1213, 1224, 1250.
1144. — In general.
1145. — Practices prohibited or required in general; elements.
1146. — Quid pro quo.
1147. — Hostile environment; severity, pervasiveness, and frequency.
1148. — Welcomeness; consent.
1149. — Knowledge or notice; preventive or remedial measures.

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II. EMPLOYMENT PRACTICES.(Cont'd)

- 1150. — Other particular cases.
- 1151. Religious discrimination.
Employers and employees affected, see ¶1108.
- 1152. — In general.
- 1153. — Practices prohibited or required in general; elements.
- 1154. — Beliefs and activities protected; sincerity.
- 1155. — Notice to employer.
- 1156. — Adverse actions in general.
- 1157. — Particular cases.
- 1158. — Motive or intent; pretext.
- 1159. — Disparate treatment.
- 1160. — Disparate impact.
- 1161. — Harassment; work environment.
See also ¶1123.
- 1162. — Accommodations.
 - (1). In general.
 - (2). Particular cases.
- 1163. — Religious tests, preferences, or requirements; religious organizations.
See also ¶1114. Reverse discrimination generally, see ¶1232.
- 1164. Sex discrimination in general.
Employers and employees affected, see ¶1108.
- 1165. — In general.
- 1166. — Practices prohibited or required in general; elements.
- 1167. — Adverse actions in general.
- 1168. — Particular cases.
- 1169. — Public employment.
- 1170. — Education, employment in.
- 1171. — Motive or intent; pretext.
- 1172. — Disparate treatment.
- 1173. — Disparate impact.
- 1174. — Physical requirements or limitations.
- 1175. — Compensation; comparable worth.
Claims under the Equal Pay Act and similar statutes, see LABOR AND EMPLOYMENT XIII.
- 1176. — Pregnancy; maternity.
Marital, parental, or familial status, see ¶1195. Family and medical leave, see LABOR AND EMPLOYMENT VI.
- 1177. — Personal appearance; hair and grooming.
- 1178. — Insurance and pensions.
Pregnancy leave computation, see ¶1176.

II. EMPLOYMENT PRACTICES.(Cont'd)

- 1179. — Discrimination against men; reverse discrimination.
Reverse discrimination generally, see ¶1232.
- 1180. — Same-sex discrimination.
Sexual orientation or identity, see ¶1191.
- 1181. Sexual harassment; work environment.
See also ¶1123.
- 1182. — In general.
- 1183. — Practices prohibited or required in general; elements.
- 1184. — Quid pro quo.
- 1185. — Hostile environment; severity, pervasiveness, and frequency.
- 1186. — Harassment of men.
Reverse discrimination generally, see ¶1232.
- 1187. — Same-sex harassment.
Sexual orientation or identity, see ¶1191.
- 1188. — Welcomeness; consent.
- 1189. — Knowledge or notice; preventive or remedial measures.
- 1190. — Other particular cases.
- 1191. Discrimination by reason of sexual orientation or identity.
Employers and employees affected, see ¶1108. Same-sex discrimination generally, see ¶1180, 1187.
- 1192. — In general.
- 1193. — Particular cases.
- 1194. — Harassment; work environment.
See also ¶1123.
- 1195. Discrimination by reason of marital, parental, or familial status.
Employers and employees affected, see ¶1108. Pregnancy and maternity, see ¶1176.
- 1196. — In general.
- 1197. — Particular cases.
- 1198. — Harassment; work environment.
See also ¶1123.
- 1199. Age discrimination.
Employers and employees affected, see ¶1108.
- 1200. — In general.
- 1201. — Practices prohibited or required in general; elements.
- 1202. — Adverse actions in general.
- 1203. — Particular cases.
- 1204. — Discharge or layoff.
- 1205. — Retirement in general.
- 1206. — Pensions, retirement plans, and employee benefits.
See also LABOR AND EMPLOYMENT VII.
- 1207. — Public employment.
- 1208. — Education, employment in.
- 1209. — Motive or intent; pretext.

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II. EMPLOYMENT PRACTICES.(Cont'd)

- 1210. — Disparate treatment.
- 1211. — Disparate impact.
- 1212. — Pilots; airlines and other carriers.
- 1213. — Harassment; work environment.
See also ¶1123.
- 1214. — Discrimination against the young; reverse discrimination.
Reverse discrimination generally, see ¶1232.
- 1215. Discrimination by reason of handicap, disability, or illness.
Employers and employees affected, see ¶1108.
Family and medical leave, see LABOR AND EMPLOYMENT VI.
- 1216. — In general.
- 1217. — Practices prohibited or required in general; elements.
- 1218. — Who is disabled; what is disability.
 - (1). In general.
 - (2). Impairments in general; major life activities.
 - (3). Particular conditions, limitations, and impairments.
 - (4). Employment qualifications, requirements, or tests.
 - (5). Record of impairment.
 - (6). Perceived disability; “regarded as” claims.
- 1219. — Adverse actions in general.
- 1220. — Particular cases.
- 1221. — Motive or intent; pretext.
- 1222. — Disparate treatment.
- 1223. — Disparate impact.
- 1224. — Harassment; work environment.
See also ¶1123.
- 1225. — Accommodations.
 - (1). In general; elements of accommodation claims.
 - (2). What are reasonable accommodations; factors considered.
 - (3). Particular cases.
 - (4). Requesting and choosing accommodations; interactive process; cooperation.
- 1226. — Alcohol or drug use.
- 1227. — Communicable diseases.
- 1228. — Human immuno-deficiency virus and acquired immune deficiency syndrome.
- 1229. — Confidentiality; disclosure.

II. EMPLOYMENT PRACTICES.(Cont'd)

- 1230. — Association or relationship with the disabled.
- 1231. Other particular bases of discrimination or classes protected.
Family and medical leave, see LABOR AND EMPLOYMENT VI.
- 1232. Reverse discrimination.
See also ¶1163, 1179, 1186, 1214, 1259. *Affirmative action as reverse discrimination, see* ¶1236.
- 1233. — In general.
- 1234. — Race, color, ethnicity, or national origin.
- 1235. — Other particular grounds.
- 1236. Affirmative action; remedial measures.
Affirmative action as relief ordered in particular cases, see ¶1448, 1562, 1757. *Labor organizations, see* ¶1260.
- 1237. — In general.
- 1238. — Race, color, ethnicity, or national origin.
- 1239. — Sex.
- 1240. — Other particular grounds.
- 1241. Retaliation for exercise of rights.
Employers and employees affected, see ¶1108. *Retaliation by labor organizations, see* ¶1261. *Retaliation for exercise of rights not grounded in civil rights or anti-discrimination statutes, see LABOR AND EMPLOYMENT VIII and other topics which include employment matters.*
- 1242. — In general.
- 1243. — Practices prohibited or required in general; elements.
- 1244. — Activities protected.
Inclusive as to ¶1241.
- 1245. — Adverse actions in general.
- 1246. — Particular cases.
- 1247. — Discharge or layoff.
- 1248. — Discipline.
- 1249. — Public employment.
 - (1). In general.
 - (2). Discharge or layoff.
 - (3). Discipline.
- 1250. — Harassment; work environment.
See also ¶1123.
- 1251. — Motive or intent; pretext.
- 1252. — Causal connection; temporal proximity.
- 1253. Labor organization practices; unions.
Labor organizations as employers, see other lines in CIVIL RIGHTS II.
- 1254. — In general.
- 1255. — Discrimination by reason of race, color, ethnicity, or national origin.

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II. EMPLOYMENT PRACTICES.(Cont'd)

- 1256. — Sex discrimination.
- 1257. — Age discrimination.
- 1258. — Other particular bases of discrimination.
- 1259. — Reverse discrimination.
Reverse discrimination generally, see ¶1232.
- 1260. — Affirmative action; remedial measures.
Affirmative action generally, see ¶1236.
- 1261. — Retaliation for exercise of rights.
Retaliation generally, see ¶1241.
- 1262. Employment agencies; newspapers.
- 1263. Waiver; effect of labor contracts.
See also RELEASE.

III. FEDERAL REMEDIES IN GENERAL.

See CIVIL RIGHTS IV for remedies under federal employment discrimination statutes, such as Title VII, the ADEA, the employment provisions of the ADA, and the Rehabilitation Act as applied to employment practices.

- 1301. In general.
- 1302. Administrative agencies and proceedings.
- 1303. Civil actions in general.
- 1304. Nature and elements of civil actions.
- 1305. Substantive or procedural rights.
- 1306. Availability, adequacy, exclusivity, and exhaustion of other remedies.
- 1307. — In general.
- 1308. — Administrative remedies in general.
- 1309. — Education.
- 1310. — Property and housing.
- 1311. — Criminal law enforcement; prisons.
- 1312. — Employment practices.
- 1313. — Other particular cases and contexts.
- 1314. Adequacy, availability, and exhaustion of state or local remedies.
- 1315. — In general.
- 1316. — Administrative remedies in general.
- 1317. — Education.
- 1318. — Property and housing.
- 1319. — Criminal law enforcement; prisons.
- 1320. — Employment practices.

III. FEDERAL REMEDIES IN GENERAL.(Cont'd)

- 1321. — Other particular cases and contexts.
- 1322. Actions directly under Constitution.
Bivens actions, see UNITED STATES V(D)2.
- 1323. Color of law.
- 1324. — In general.
- 1325. — State or territorial action, or individual or private action, in general.
- 1326. — Particular cases and contexts.
 - (1). In general.
 - (2). Officers and public employees, in general.
 - (3). Private persons or corporations, in general.
 - (4). — In general.
 - (5). — Cooperation with state actor.
 - (6). Schools; education.
 - (7). Public support, license, or regulation; utilities and monopolies.
 - (8). Police or peace officers; prisons.
 - (9). Pursuit of private or judicial remedies.
 - (10). Attorneys and witnesses.
 - (11). Employment practices.
- 1327. — Federal law or action.
Bivens actions, see UNITED STATES V(D)2.
- 1328. Persons protected and entitled to sue.
- 1329. — In general.
- 1330. — Private right of action.
 - (1). In general.
 - (2). Education.
 - (3). Property and housing.
 - (4). Criminal law enforcement; prisons.
 - (5). Employment practices.
Who is an employee under employment discrimination statutes, see ¶1108.
 - (6). Other particular cases and contexts.
- 1331. — Persons aggrieved, and standing in general.
 - (1). In general.
 - (2). Education.
 - (3). Property and housing.
 - (4). Criminal law enforcement; prisons.
 - (5). Employment practices.
See note to ¶1330(5).

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III. FEDERAL REMEDIES IN GENERAL.(Cont'd)

- (6). Other particular cases and contexts.
- 1332. — Third party rights; decedents.
 - (1). In general.
 - (2). Education.
 - (3). Property and housing.
 - (4). Criminal law enforcement; prisons.
 - (5). Employment practices.
See note to ¶1330(5).
 - (6). Other particular cases and contexts.
- 1333. — Injury and causation.
 - (1). In general.
 - (2). Education.
 - (3). Property and housing.
 - (4). Criminal law enforcement; prisons.
 - (5). Employment practices.
See note to ¶1330(5).
 - (6). Other particular cases and contexts.
- 1334. Persons liable in general.
- 1335. — In general.
- 1336. — Vicarious or respondeat superior liability in general.
- 1337. — Education.
- 1338. — Property and housing.
- 1339. — Criminal law enforcement; prisons.
- 1340. — Employment practices.
Who is an employer under employment discrimination statutes, see ¶1108.
- 1341. — Other particular cases and contexts.
- 1342. Liability of municipalities and other governmental bodies.
- 1343. — In general.
- 1344. — States and territories and their agencies and instrumentalities, in general.
- 1345. — Acts of officers and employees in general; vicarious liability and respondeat superior in general.
- 1346. — Education.
- 1347. — Property and housing.
- 1348. — Criminal law enforcement; prisons.
- 1349. — Employment practices.
See note to ¶1340.

III. FEDERAL REMEDIES IN GENERAL.(Cont'd)

- 1350. — Other particular cases and contexts.
- 1351. — Governmental ordinance, policy, practice, or custom.
 - (1). In general.
 - (2). Education.
 - (3). Property and housing.
 - (4). Criminal law enforcement; prisons.
 - (5). Employment practices.
See note to ¶1340.
 - (6). Other particular cases and contexts.
- 1352. — Lack of control, training, or supervision; knowledge and inaction.
 - (1). In general.
 - (2). Education.
 - (3). Property and housing.
 - (4). Criminal law enforcement; prisons.
 - (5). Employment practices.
See note to ¶1340.
 - (6). Other particular cases and contexts.
- 1353. Liability of public employees and officials.
- 1354. — In general.
- 1355. — Vicarious liability and respondeat superior in general; supervisory liability in general.
- 1356. — Education.
- 1357. — Property and housing.
- 1358. — Criminal law enforcement; prisons.
- 1359. — Employment practices.
See note to ¶1340.
- 1360. — Other particular cases and contexts.
- 1361. Liability of federal government and its agencies and officers.
Bivens actions, see UNITED STATES V(D)2.
- 1362. — In general.
- 1363. — Employment practices.
See note to ¶1340.
- 1364. — Other particular cases and contexts.
- 1365. Defenses in general.
- 1366. — In general.
- 1367. — Education.
- 1368. — Property and housing.

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III. FEDERAL REMEDIES IN
GENERAL.(Cont'd)

- 1369. — Criminal law enforcement; prisons.
- 1370. — Employment practices.
- 1371. — Other particular cases and contexts.
- 1372. Privilege or immunity; good faith and probable cause.
- 1373. — In general.
- 1374. — Exercise of rights.
- 1375. — Attorneys, jurors, and witnesses; public defenders.
- 1376. — Government agencies and officers.
Officers as witnesses, see ¶1375.
 - (1). In general.
 - (2). Good faith and reasonableness; knowledge and clarity of law; motive and intent, in general.
 - (3). States and territories and their officers and agencies.
 - (4). Municipalities and counties and their officers.
 - (5). Schools.
 - (6). Sheriffs, police, and other peace officers.
 - (7). Prisons, jails, and their officers; parole and probation officers.
 - (8). Judges, courts, and judicial officers.
 - (9). Attorney General and prosecuting attorneys.
 - (10). Employment practices.
- 1377. Proceedings in general.
- 1378. Time to sue.
- 1379. — In general.
- 1380. — Education.
- 1381. — Property and housing.
- 1382. — Criminal law enforcement; prisons.
- 1383. — Employment practices.
- 1384. — Other particular cases and contexts.
- 1385. Parties.
- 1386. — In general.
- 1387. — Education.
- 1388. — Property and housing.
- 1389. — Criminal law enforcement; prisons.

III. FEDERAL REMEDIES IN
GENERAL.(Cont'd)

- 1390. — Employment practices.
- 1391. — Other particular cases and contexts.
- 1392. Pleading.
General issues concerning construction of pro se or lay pleadings, see FEDERAL CIVIL PROCEDURE ¶657.5(2, 3) and PLEADING ¶34(3.5).
- 1393. — In general.
- 1394. — Complaint in general.
- 1395. — Particular causes of action.
 - (1). In general.
 - (2). Education.
 - (3). Property and housing.
 - (4). Criminal law enforcement; police and prosecutors.
 - (5). — In general.
 - (6). — Arrest, search, and detention.
 - (7). Prisons and jails; probation and parole.
 - (8). Employment practices.
- 1396. — Color of law; state action.
- 1397. — Issues, proof, and variance.
- 1398. — Defenses; immunity and good faith.
- 1399. Evidence in general.
- 1400. Presumptions, inferences, and burdens of proof.
- 1401. — In general.
- 1402. — Education.
- 1403. — Property and housing.
- 1404. — Criminal law enforcement; prisons.
- 1405. — Employment practices.
- 1406. — Other particular cases and contexts.
- 1407. — Defenses; immunity and good faith.
- 1408. Admissibility of evidence.
- 1409. — In general.
- 1410. — Education.
- 1411. — Property and housing.
- 1412. — Criminal law enforcement; prisons.
- 1413. — Employment practices.
- 1414. — Other particular cases and contexts.
- 1415. — Defenses; immunity and good faith.

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III. FEDERAL REMEDIES IN GENERAL.(Cont'd)

- 1416. Weight and sufficiency of evidence.
- 1417. — In general.
- 1418. — Education.
- 1419. — Property and housing.
- 1420. — Criminal law enforcement; prisons.
- 1421. — Employment practices.
- 1422. — Other particular cases and contexts.
- 1423. — Defenses; immunity and good faith.
- 1424. Trial in general.
- 1425. Questions of law or fact.
- 1426. — In general.
- 1427. — Education.
- 1428. — Property and housing.
- 1429. — Criminal law enforcement; prisons.
- 1430. — Employment practices.
- 1431. — Other particular cases and contexts.
- 1432. — Defenses; immunity and good faith.
- 1433. Instructions.
- 1434. — In general.
- 1435. — Education.
- 1436. — Property and housing.
- 1437. — Criminal law enforcement; prisons.
- 1438. — Employment practices.
- 1439. — Other particular cases and contexts.
- 1440. — Defenses; immunity and good faith.
- 1441. Appointment of counsel.
- 1442. — In general.
- 1443. — Education.
- 1444. — Property and housing.
- 1445. — Criminal law enforcement; prisons.
- 1446. — Employment practices.
- 1447. — Other particular cases and contexts.
- 1448. Judgment and relief in general.
- 1449. Injunction.
- 1450. — In general.
- 1451. — Public accommodations or facilities.

III. FEDERAL REMEDIES IN GENERAL.(Cont'd)

- 1452. — Education.
- 1453. — Property and housing.
- 1454. — Criminal law enforcement; prisons.
- 1455. — Employment practices.
- 1456. — Other particular cases and contexts.
- 1457. — Preliminary injunction.
 - (1). In general.
 - (2). Public accommodations or facilities.
 - (3). Education.
 - (4). Property and housing.
 - (5). Criminal law enforcement; prisons.
 - (6). Employment practices.
 - (7). Other particular cases and contexts.
- 1458. Monetary relief in general.
- 1459. — In general.
- 1460. — Availability in general.
- 1461. — Nominal damages.
- 1462. — Grounds and subjects; compensatory damages.
- 1463. — Mental suffering, emotional distress, humiliation, or embarrassment.
- 1464. — Measure and amount.
- 1465. — Exemplary or punitive damages.
 - (1). In general.
 - (2). Government liability.
- 1466. Monetary relief in employment practices cases.
- 1467. — In general.
- 1468. — Availability in general.
- 1469. — Nominal damages.
- 1470. — Grounds and subjects; compensatory damages.
- 1471. — Back pay or lost earnings.
- 1472. — Mental suffering, emotional distress, humiliation, or embarrassment.
- 1473. — Measure and amount.
- 1474. — Exemplary or punitive damages.
 - (1). In general.
 - (2). Government liability.
- 1475. Enforcement.
- 1476. Costs.
- 1477. Attorney fees.
- 1478. — In general.

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III. FEDERAL REMEDIES IN GENERAL.(Cont'd)

- 1479. — Proceedings, grounds, and objections in general.
- 1480. — Parties entitled or liable; immunity.
- 1481. — Public benefit; private attorneys general.
- 1482. — Results of litigation; prevailing parties.
- 1483. — Good or bad faith; misconduct.
- 1484. — Awards to defendants; frivolous, vexatious, or meritless claims.
- 1485. — Claims by prisoners.
- 1486. — Services or activities for which fees may be awarded.
- 1487. — Amount and computation.
- 1488. — Time expended; hourly rates.
- 1489. — Institutional, salaried, or public service attorneys; pro bono work.
- 1490. — Taxation.
- 1491. — Interim awards.
- 1492. Costs and fees on appeal.
- 1493. Civil actions by Attorney General.

IV. REMEDIES UNDER FEDERAL EMPLOYMENT DISCRIMINATION STATUTES.

See CIVIL RIGHTS.III for remedies under federal laws of general application, such as Sections 1981 and 1983, and for remedies for violations of federal constitutional rights.

- 1501. In general.
Family and medical leave, see LABOR AND EMPLOYMENT VI.
- 1502. Existence of other remedies; exclusivity.
- 1503. Administrative agencies and proceedings.
- 1504. — In general.
- 1505. — Time for proceedings; limitations.
 - (1). In general.
 - (2). Periods applicable.
 - (3). Operation; accrual and computation.
 - (4). Effect; excuses in general.
 - (5). Waiver and estoppel.
 - (6). Tolling.
 - (7). Continuing violations; serial, ongoing, or related acts.
- 1506. — Charges and investigations.
- 1507. — Deferral to state agencies; time.

IV. REMEDIES UNDER FEDERAL EMPLOYMENT DISCRIMINATION STATUTES.(Cont'd)

- 1508. — Subpoenas and demands for production.
- 1509. — Evidence, hearing, and determination.
- 1510. — Judicial review and enforcement of administrative decisions.
- 1511. Civil actions in general.
- 1512. Exhaustion of administrative remedies before resort to courts.
- 1513. — In general.
- 1514. — Particular cases.
- 1515. — Conference, conciliation, and persuasion; settlement.
- 1516. — Scope of administrative proceedings; like or related claims.
- 1517. — Parties in administrative proceedings.
- 1518. — Participation in administrative proceedings; cooperation and diligence.
- 1519. — Excuses; waiver and estoppel; futility.
- 1520. Exhaustion of state or local remedies.
- 1521. Persons protected and entitled to sue.
Who is an employee under employment discrimination statutes, see §1108.
- 1522. — In general.
- 1523. — Right to sue letter or notice; official inaction.
- 1524. — Intent to sue notice.
- 1526. Persons liable.
Who is an employer under employment discrimination statutes, see §1108.
- 1527. — In general.
- 1528. — Vicarious liability; respondeat superior.
- 1529. Defenses in general.
- 1530. Time for proceedings; limitations.
- 1531. Parties.
- 1532. Pleading.
- 1533. Evidence in general.
- 1534. Presumptions, inferences, and burden of proof.
- 1535. — In general.
- 1536. — Effect of prima facie case; shifting burden.
- 1537. — Sex discrimination.

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IV. REMEDIES UNDER FEDERAL EMPLOYMENT DISCRIMINATION STATUTES.(Cont'd)

- 1538. — Discrimination by reason of sexual orientation or identity.
- 1539. — Age discrimination.
- 1540. — Discrimination by reason of handicap, disability, or illness.
- 1541. — Retaliation claims.
- 1542. Admissibility of evidence; statistical evidence.
- 1543. Weight and sufficiency of evidence.
- 1544. — In general.
- 1545. — Prima facie case.
- 1546. — Educational requirements; ability tests.
- 1547. — Wages or salaries.
- 1548. — Promotion or transfer.
- 1549. — Sex discrimination.
- 1550. — Discrimination by reason of sexual orientation or identity.
- 1551. — Age discrimination.
- 1552. — Discrimination by reason of handicap, disability, or illness.
- 1553. — Retaliation claims.
- 1554. Trial in general.
- 1555. Questions of law or fact.
- 1556. Instructions.
- 1557. Appointment of counsel.
- 1558. Judgment in general.
- 1559. Relief.
- 1560. — In general.
- 1561. — Injunction in general.
- 1562. — Affirmative action; recruitment and hiring.
- 1563. — Reinstatement.
- 1564. — Assignment, transfer, or promotion.
- 1565. — Seniority rights.
- 1566. — Labor organization practices; collective bargaining agreements.
- 1567. — Apprenticeship or training programs.
- 1568. — Preliminary injunction.
- 1569. Monetary relief; restitution.
- 1570. — In general.
- 1571. — Back pay or lost earnings.
- 1572. — Mental suffering, emotional distress, humiliation, or embarrassment.

IV. REMEDIES UNDER FEDERAL EMPLOYMENT DISCRIMINATION STATUTES.(Cont'd)

- 1573. — Aggravation, mitigation, or reduction of loss.
- 1574. — Measure and amount.
- 1575. — Exemplary or punitive damages.
 - (1). In general.
 - (2). Measure and amount.
- 1576. — Liquidated damages.
 - (1). In general.
 - (2). Age discrimination.
- 1577. — Persons liable; apportionment.
- 1578. Relief from retaliation.
- 1579. — In general.
- 1580. — Injunction in general.
- 1581. — Reinstatement.
- 1582. — Preliminary injunction.
- 1583. — Monetary relief.
 - (1). In general.
 - (2). Back pay or lost earnings.
 - (3). Mental suffering, emotional distress, humiliation, or embarrassment.
 - (4). Aggravation, mitigation, or reduction of loss.
 - (5). Measure and amount.
 - (6). Exemplary or punitive damages.
 - (7). — In general.
 - (8). — Measure and amount.
 - (9). Liquidated damages.
 - (10). Persons liable; apportionment.
- 1584. Costs.
- 1585. Attorney fees.
- 1586. — In general.
- 1587. — Proceedings, grounds, and objections in general.
- 1588. — Parties entitled or liable; immunity.
- 1589. — Public benefit; private attorneys general.
- 1590. — Results of litigation; prevailing parties.
- 1591. — Good or bad faith; misconduct.
- 1592. — Awards to defendants; frivolous, vexatious, or meritless claims.
- 1593. — Services or activities for which fees may be awarded.
- 1594. — Amount and computation.
- 1595. — Time expended; hourly rates.

78. CIVIL RIGHTS

IV. REMEDIES UNDER FEDERAL EMPLOYMENT DISCRIMINATION STATUTES.(Cont'd)

- 1596. — Institutional, salaried, or public service attorneys; pro bono work.
- 1597. — Taxation.
- 1598. — Interim awards.
- 1599. Costs and fees on appeal.
- 1600. Civil actions by Attorney General.

V. STATE AND LOCAL REMEDIES.

- 1701. In general.
- 1702. What law governs.
- 1703. Federal preemption.
See also STATES.
- 1704. Existence of other remedies; exclusivity.
- 1705. State or local administrative agencies and proceedings.
- 1706. — In general.
- 1707. — Jurisdiction and authority.
- 1708. — Time for proceedings; limitations.
- 1709. — Charges and investigations.
- 1710. — Evidence.
- 1711. — Hearing, determination, and relief; costs and fees.
- 1712. — Judicial review and enforcement of administrative decisions.
- 1713. Exhaustion of administrative remedies before resort to courts.
- 1714. — In general.
- 1715. — Employment practices.
- 1716. — Other particular cases and contexts.
- 1717. Civil actions in general.
- 1718. Right of action; nature and grounds.
See also ¶1703, 1704.
- 1719. — In general.
- 1720. — Employment practices.
- 1721. — Other particular cases and contexts.
- 1722. Conditions precedent; right-to-sue letters.
See also ¶1713.
- 1723. — In general.
- 1724. — Employment practices.
- 1725. — Other particular cases and contexts.
- 1726. Defenses in general.
- 1727. — In general.

V. STATE AND LOCAL REMEDIES.(Cont'd)

- 1728. — Employment practices.
- 1729. — Other particular cases and contexts.
- 1730. Time for proceedings; limitations.
- 1731. — In general.
- 1732. — Employment practices.
- 1733. — Other particular cases and contexts.
- 1734. Persons protected, persons liable, and parties.
Who is an employee or an employer under employment discrimination statutes, see ¶1108.
- 1735. — In general.
- 1736. — Employment practices.
- 1737. — Other particular cases and contexts.
- 1738. Pleading.
General issues concerning construction of pro se or lay pleadings, see FEDERAL CIVIL PROCEDURE ¶657.5(2, 3) *and* PLEADING ¶34(3.5).
- 1739. — In general.
- 1740. — Employment practices.
- 1741. — Other particular cases and contexts.
- 1742. Evidence.
- 1743. — In general.
- 1744. — Employment practices.
- 1745. — Other particular cases and contexts.
- 1746. Trial in general.
- 1747. Questions of law or fact.
- 1748. — In general.
- 1749. — Employment practices.
- 1750. — Other particular cases and contexts.
- 1751. Instructions.
- 1752. — In general.
- 1753. — Employment practices.
- 1754. — Other particular cases and contexts.
- 1755. Judgment and relief in general.
- 1756. — In general.
- 1757. — Employment practices.
- 1758. — Other particular cases and contexts.
- 1759. Injunction.
- 1760. — In general.
- 1761. — Employment practices.
- 1762. — Other particular cases and contexts.

78. CIVIL RIGHTS

V. STATE AND LOCAL REMEDIES.(Cont'd)

- 1763. Monetary relief.
- 1764. — In general.
- 1765. — Employment practices.
- 1766. — Other particular cases and contexts.
- 1767. Exemplary or punitive damages.
- 1768. — In general.
- 1769. — Employment practices.
- 1770. — Other particular cases and contexts.
- 1771. Costs and fees.
- 1772. — In general.
- 1773. — Employment practices.
- 1774. — Other particular cases and contexts.

VI. OFFENSES AND PENALTIES.

- 1801. In general.
- 1802. Constitutional and statutory provisions.
- 1803. — In general.
- 1804. — Purpose and construction in general.
- 1805. — Power to enact and validity.
- 1806. — Retrospective application.
- 1807. Penalties and forfeitures.
- 1808. Offenses.
- 1809. Prosecutions.

79. CLERKS OF COURTS

SUBJECTS INCLUDED

Officers of civil tribunals authorized to perform clerical functions, with incidental judicial powers, whether designated as clerks, prothonotaries, or by other titles

Appointment, qualification, tenure and removal of such officers

Ex officio and de facto clerks of courts

Their rights, powers, duties and liabilities

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Particular proceedings by or before clerks, see specific topics

- 1. Nature of office.
- 2. Creation and abolition of office.
- 3. Appointment.
- 4. Eligibility and qualification.
- 5. De facto officers.
- 6. Deputies and assistants.
- 7. Term of office, vacancies, and holding over.
- 8. Resignation, suspension, or removal.
- 9. Title to and possession of office.
- 10. Compensation and fees of clerks of state courts.
- 11. — In general.
- 12. — Statutory provisions.
- 13. — Joinder of causes or parties and consolidation.
- 14. — Writs, process, and notices.
- 15. — Oaths and affirmations.
- 16. — Recognizances, bonds, undertakings, and acknowledgments.
- 17. — Filing papers.
- 18. — Entries and records in general.
- 19. — Trial and docket fees.
- 20. — Entry of judgments, decrees, or orders.
- 21. — Certificates, returns, and reports in general.
- 22. — Certificates as to attendance or fees of jurors or witnesses.
- 23. — Copies and duplicates.
- 24. — Certified copies and exemplifications.
- 25. — Searches.
- 26. — Commissions.
- 27. — Per diem compensation.
- 28. — Office expenses, supplies, and clerk hire.
- 29. — Special or extra services or expenses.
- 30. — Persons liable in general.
- 31. — Liability of state, county, or city.
- 32. — Time for payment of fees.
- 33. — Salaries.
- 34. — Limitation of emoluments.
- 35. — Accounting as to fees.
- 36. — Penalties, and forfeiture of fees.
- 37. — Recovery of fees or salary.
- 38. Compensation and fees of clerks of United States courts.
- 39. — In general.

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40. — Statutory provisions.
41. — Services in different courts.
42. — Joinder of causes or parties and consolidation.
43. — Writs, process, and notices.
44. — Oaths and affirmations.
45. — Depositions, and copies thereof.
46. — Recognizances; bonds, undertakings, and acknowledgments.
47. — Filing papers.
48. — Entries and records.
49. — Docket fees.
50. — Certificates, returns, and reports in general.
51. — Certificates as to attendance or fees of jurors or witnesses.
52. — Copies, duplicates, and exemplifications.
53. — Searches.
54. — Commissions.
55. — Per diem compensation.
56. — Office expenses, supplies, and clerk hire.
57. — Special or extra services or expenses.
58. — Persons liable in general.
59. — Liability of United States.
60. — Time for payment of fees.
61. — Accounting as to fees.
62. — Recovery of fees or salary.
63. Fees of clerks of territorial courts.
64. Powers and proceedings in general.
- 64.1. — In general.
65. — Nature and extent of authority.
66. — Judicial functions and proceedings.
67. — Ministerial functions and acts.
68. — Disqualification to act.
69. Custody and care of records.
70. Custody and care of funds.
71. Summary remedies to compel action.
72. Liabilities for negligence or misconduct.
73. Liabilities on official bonds.
- 73.1. — In general.
74. — Breach or fulfillment of conditions.
75. — Actions on bonds.
76. Criminal responsibility.

80. CLUBS

SUBJECTS INCLUDED

Bodies formed by the incorporation or association of persons for social purposes or for any common purpose other than pecuniary profit or benefit, and not of a specifically educational, charitable or religious nature

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Corporations or unincorporated associations in general, see CORPORATIONS AND BUSINESS ORGANIZATIONS, ASSOCIATIONS

1. Nature and status in general.
2. Statutory provisions.
3. Incorporation and organization.
4. Constitutions, by-laws, and rules.
5. Membership in general.
6. Stock.
7. Dues, fines, and assessments.
8. Officers and committees.
9. Powers of societies in general.
10. Superior, subordinate, and affiliated bodies.
11. Rights and liabilities as to persons not members.
12. Actions by or against clubs.
13. Insolvency and receivers.
14. Consolidation, merger, and dissolution.

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SUBJECTS INCLUDED

Striking together or other contact of vessels causing injury to person or property

Rules of navigation for preventing such collisions

Nature and extent of liability of vessels and their owners, claimants, etc. for such injuries

Suits for damages therefor

82. COLLISION

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Admiralty jurisdiction and procedure in general, see ADMIRALTY

Allision, see SHIPPING

Limitation of liability of shipowner, proceedings for, see SHIPPING

- I. RULES AND PRECAUTIONS FOR PREVENTING COLLISIONS IN GENERAL, ¶1-26.
- II. SAIL VESSELS MEETING OR CROSSING, ¶27-34.
- III. STEAM VESSELS MEETING OR CROSSING, ¶35-42.
- IV. STEAM VESSELS AND SAIL VESSELS, ¶43-49.
- V. OVERTAKING VESSELS, ¶50-56.
- VI. VESSELS IN TOW, ¶57-66.
- VII. VESSELS AT REST, AT ANCHOR, OR AT PIERS, ¶67-74.
- VIII. LIGHTS, SIGNALS, AND LOOK-OUTS, ¶75-79.
- IX. FOG OR THICK WEATHER, ¶80-85.
- X. NARROW CHANNELS, HARBORS, RIVERS, AND CANALS, ¶86-105.
- XI. SPECIAL CIRCUMSTANCES AND ERRORS IN EXTREMIS, ¶106-110.
- XII. SUITS FOR DAMAGES, ¶111-154.
 - (A) RIGHT OF ACTION AND DEFENSES, ¶111-115.
 - (B) PARTIES, ¶116.
 - (C) PLEADING, ¶117-121.
 - (D) EVIDENCE, ¶122-125.
 - (E) DAMAGES, ¶126-148.
 - (F) TRIAL OR HEARING, ¶149-150.
 - (G) JUDGMENT OR DECREE, ¶151-152.
 - (H) APPEAL, ¶153.
 - (I) COSTS, ¶154.

I. RULES AND PRECAUTIONS FOR PREVENTING COLLISIONS IN GENERAL.

- 1. Duty to avoid collision in general.
- 2. What law governs.
- 3. Usages of navigation.
- 4. General maritime law.
- 5. International regulations.
- 6. Statutory regulations.
- 7. Supervising inspectors' rules.
- 8. Local statutes and ordinances.
- 9. Local customs and usages.
- 10. Rules established by private authority.

I. RULES AND PRECAUTIONS FOR PREVENTING COLLISIONS IN GENERAL.(Cont'd)

- 11. Operation and effect of regulations.
- 12. Structure and condition of vessel.
- 13. Equipment of vessel.
- 14. Sufficiency of officers and crew.
- 15. Sufficiency of pilot.
- 16. Control and management of vessel in general.
- 17. Fault as cause of collision.
- 18. Proximate cause of collision.
- 19. Fault of both vessels.
- 20. Injury avoidable notwithstanding fault of other vessel.
- 21. Justification or excuse for fault.
- 22. Inevitable accident.
- 23. Inscrutable fault.
- 24. Statutory limitation of liability.
- 25. — In general.
- 26. — Harter act.

II. SAIL VESSELS MEETING OR CROSSING.

- 27. Relative positions and courses.
- 28. Duties of vessels meeting end on.
- 29. Duty to keep out of the way.
- 30. Duty of vessel having right of way.
- 31. Fault as cause of collision.
- 32. Both vessels in fault.
- 33. Presumptions and burden of proof as to fault.
- 34. Evidence as to fault.

III. STEAM VESSELS MEETING OR CROSSING.

- 35. Relative positions and courses.
- 36. Duties of vessels meeting end on.
- 37. Duty to keep out of the way.
- 38. Duty of vessel having right of way.
- 39. Fault as cause of collision.
- 40. Both vessels in fault.
- 41. Presumptions and burden of proof as to fault.
- 42. Evidence as to fault.

IV. STEAM VESSELS AND SAIL VESSELS.

- 43. Duty of steam vessel.
- 44. Duty of sail vessel.
- 45. Fault as cause of collision.
- 46. Both vessels in fault.

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IV. STEAM VESSELS AND SAIL VESSELS.(Cont'd)

- 47. Injury avoidable by steamer notwithstanding fault of sail vessel.
- 48. Presumptions and burden of proof as to fault.
- 49. Evidence as to fault.

V. OVERTAKING VESSELS.

- 50. Relative positions and courses.
- 51. Duty of overtaking vessel.
- 52. Duty of vessel overtaken.
- 53. Fault as cause of collision.
- 54. Both vessels in fault.
- 55. Presumptions and burden of proof as to fault.
- 56. Evidence as to fault.

VI. VESSELS IN TOW.

- 57. Control and management in general.
- 58. Duty of tug as to vessels other than tow.
- 59. Duty of tow as to vessels other than tug.
- 60. Duty of other vessels as to passing tow.
- 61. Fault as cause of collision.
- 62. Tug and tow both in fault.
- 63. Tug and colliding vessel both in fault.
- 64. Tow and colliding vessel both in fault.
- 65. Presumptions and burden of proof as to fault.
- 66. Evidence as to fault.

VII. VESSELS AT REST, AT ANCHOR, OR AT PIERS.

- 67. Vessels not under way in general.
- 68. Vessels drifting.
- 69. Vessels anchored.
- 70. Vessels moored.
- 71. Fault as cause of collision.
 - (1). In general.
 - (2). Fault of moving vessel.
 - (3). Fault of vessel anchored, moored, or at rest.
- 72. Both vessels in fault.
 - (1). In general.
 - (2). Towing vessels and vessels in tow.
- 73. Presumptions and burden of proof as to fault.
- 74. Evidence as to fault.

VIII. LIGHTS, SIGNALS, AND LOOKOUTS.

- 75. Lights and other visible signals.
 - (.5). In general.
 - (1). Necessity and sufficiency in general.
 - (2). Steam vessels under way.
 - (3). Sail vessels under way.
 - (4). Pilot boats.
 - (5). Vessels not under command.
 - (6). Vessels at anchor, moored, or grounded.
 - (7). Flare-up lights or torches.
 - (8). Lights obscured.
 - (9). Duty to observe lights.
 - (10). Mistake as to lights.
 - (11). Fault as cause of collision.
 - (12). Both vessels at fault.
 - (13). Collision avoidable notwithstanding absence of lights.
- 76. Sound signals.
- 77. Lookouts.
- 78. Presumptions and burden of proof as to fault.
- 79. Evidence as to fault.

IX. FOG OR THICK WEATHER.

- 80. Precautions in general.
- 81. Signals and lookouts.
- 82. Speed and course.
 - (1). In general.
 - (2). Steam vessels.
 - (3). Sail vessels.
- 83. Both vessels in fault.
- 84. Presumptions and burden of proof as to fault.
- 85. Evidence as to fault.

X. NARROW CHANNELS, HARBORS, RIVERS, AND CANALS.

- 86. Entrance to channel or harbor.
- 87. Taking or discharging pilot.
- 88. Taking, making up, or discharging tow.
- 89. Separate channels or passages.
- 90. Navigation in channel or river in general.
- 91. Vessels meeting.
- 92. Vessels turning in channel.
- 93. Vessels crossing channel or river.
- 94. Overtaking vessels.
- 95. Towing vessels and vessels in tow.

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X. NARROW CHANNELS, HARBORS, RIVERS, AND CANALS.(Cont'd)

- (1). In general.
 - (2). Towing vessel in fault.
 - (3). Towing vessel and tow both in fault.
 - (4). Fault of vessel without tow.
 - (5). Fault of overtaking or passing vessel.
 - (6). Tow and colliding vessel both in fault.
 - (7). Towing vessel and colliding vessel both in fault.
96. Vessels approaching or leaving wharves or slips.
97. Vessels launched or sliding from ways.
98. Signals.
99. Lookouts.
100. Fog.
- (1). In general.
 - (2). Speed, signals, and lookouts.
101. Obstructions by ice.
102. Both vessels in fault.
- (1). In general.
 - (2). Vessels meeting.
 - (3). Vessels crossing.
 - (4). Overtaking vessels.
 - (5). Vessels turning.
 - (6). Vessels approaching or leaving wharves or slips.
103. Canal navigation.
104. Presumptions and burden of proof as to fault.
105. Evidence as to fault.
- (1). In general.
 - (2). Steam vessels meeting.
 - (3). Steam vessels crossing.
 - (4). Steam vessels and sail vessels.
 - (5). Overtaking vessels.
 - (6). Towing vessels and vessels in tow.
 - (7). Vessels approaching or leaving wharves or slips.

XI. SPECIAL CIRCUMSTANCES AND ERRORS IN EXTREMIS.

106. Precautions required under special circumstances.
107. Departures from rules.
108. Errors in extremis.

XI. SPECIAL CIRCUMSTANCES AND ERRORS IN EXTREMIS.(Cont'd)

109. Conduct after collision.
110. Injuries subsequent to collision.

XII. SUITS FOR DAMAGES.

(A) RIGHT OF ACTION AND DEFENSES.

111. Nature and form of remedy.
112. Grounds of action.
113. Defenses.
114. Persons entitled to sue.
115. Vessels, cargoes, and persons liable.

(B) PARTIES.

116. In general.

(C) PLEADING.

117. Libel or complaint at law.
118. Answer.
119. Cross-libel and answer thereto.
120. Amended and supplemental pleadings.
121. Issues, proof, and variance.

(D) EVIDENCE.

122. Presumptions.
123. Burden of proof.
124. Admissibility.
125. Weight and sufficiency.

(E) DAMAGES.

126. Nature and grounds in general, and what law governs.
127. Direct or remote damages.
128. Loss of profits or freight.
129. Expenses incurred.
130. Interest.
131. Exemplary damages.
132. Measure of damages in general.
133. Loss of vessel.
134. Repairs of vessel.
135. Depreciation of vessel.
136. Detention of vessel.
137. Loss of or injury to cargo or personal effects.
138. Personal injuries.
139. Death of person injured.
140. Value of vessel in fault as limit of liability.

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XII. SUITS FOR DAMAGES.(Cont'd)

- 141. Structure or condition of vessel destroyed or injured.
- 142. Misconduct of person injured.
- 143. Division of damages.
- 143.1. — In general.
- 144. — Grounds in general.
- 145. — Damages to be divided.
- 146. — Mode of apportionment.
- 147. Contribution and subrogation.
- 148. Distribution of damages recovered.

(F) TRIAL OR HEARING.

- 149. Course and conduct of hearing.
- 150. Commissioners and proceedings before them.

(G) JUDGMENT OR DECREE.

- 151. In general.

(H) APPEAL.

- 153. In general.

(I) COSTS.

- 154. In general.

83. COMMERCE

SUBJECTS INCLUDED

Promotion and regulation of commerce in general

More particularly, the power to regulate commerce with foreign nations, among the several states, with Indian tribes, and the internal commerce of the states, and means and methods of exercise of the power

Interstate Commerce Commission

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Indians, regulations of intercourse with, see INDIANS

Particular instrumentalities of commerce, questions of regulation not involving the supremacy of federal power under the commerce clause of the federal Constitution,

see CARRIERS, RAILROADS, INSURANCE, LABOR AND EMPLOYMENT, and other specific topics

Restraint of trade or commerce, contracts, combinations and conspiracies, see ANTI-TRUST AND TRADE REGULATION, CONTRACTS, CONSPIRACY

State power, conflict with federal power in general, see STATES

Trade regulation, more particularly that designed to prevent unfair competition and unfair trade practices, see ANTITRUST AND TRADE REGULATION

I. POWER TO REGULATE IN GENERAL, ¶1-14.

II. APPLICATION TO PARTICULAR SUBJECTS AND METHODS OF REGULATION, ¶14.5-82.60.

(A) IN GENERAL, ¶14.5-55.5.

(B) CONDUCT OF BUSINESS IN GENERAL, ¶56-62.9.

(C) MONOPOLIES AND TRADE REGULATION, ¶62.10-62.19.

(D) EMPLOYMENT OF LABOR, ¶62.20-62.69.

1. IN GENERAL, ¶62.20-62.21.

2. LABOR RELATIONS, ¶62.30-62.36.

3. WAGES AND HOURS, ¶62.40-62.67.

(E) LICENSES AND TAXES, ¶62.70-74.29.

(F) INTOXICATING LIQUORS, ¶74.30-74.49.

(G) CIVIL RIGHTS, ¶74.50-74.70.

(H) IMPORTS AND EXPORTS, ¶75-78.

(I) CIVIL REMEDIES, ¶80-81.5.

(J) OFFENSES AND PROSECUTIONS, ¶82-82.19.

(K) MISCELLANEOUS SUBJECTS AND REGULATIONS, ¶82.20-82.60.

III. INTERSTATE COMMERCE COMMISSION, ¶83-214.

(A) ORGANIZATION AND AUTHORITY, ¶83-98.

(B) PROCEEDINGS BEFORE COMMISSION, ¶99-150.

(C) JUDICIAL REVIEW, ¶151-200.

(D) JUDICIAL ENFORCEMENT, ¶201-214.

I. POWER TO REGULATE IN GENERAL.

- 1. Nature and grounds of power.

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I. POWER TO REGULATE IN GENERAL.(Cont'd)

2. Constitutional grant of power to Congress.
3. — In general.
4. — Commerce with foreign nations.
5. — Commerce among the states.
6. — Commerce with the Indian tribes.
7. — Internal commerce of states.
 - (1). In general.
 - (2). Activities affecting interstate commerce.
8. — Exclusive or concurrent powers of Congress and the states.
 - (1). In general; application of state or federal law.
 - (1.5). Federal pre-emption.
9. — Delegation of power by Congress.
10. — Nonexercise of power by Congress.
11. Powers remaining in states, and limitations thereon.
12. — In general.
13. — Internal commerce.
- 13.5. — Local matters affecting commerce.

II. APPLICATION TO PARTICULAR SUBJECTS AND METHODS OF REGULATION.

(A) IN GENERAL.

- 14.5. Subjects of commerce in general.
- 14.6. — In general.
- 14.10. — Transportation or movement of goods or persons.
 - (1). In general.
 - (2). Beginning, continuance, and termination of movement.
 - (3). Storage or warehousing.
15. — Property subject of commerce.
48. Nature and scope of regulations in general.
49. Inspection.
52. Quarantine and other sanitary or health regulations.
 - 52.1. — In general.
 - 52.5. — Drugs and narcotics.
 - 52.10. Environmental protection regulations.
54. Preferences and discriminations.
 - 54.1. — In general.
 - 54.5. — Foreign corporations.
55. Prohibitory acts and ordinances.
 - 55.5. Eminent domain.

(B) CONDUCT OF BUSINESS IN GENERAL.

56. Regulation and conduct in general; particular businesses.
58. Railroads and other surface carriers.
59. Telecommunications and internet.
60. Manufacture and sale of goods.
 - (1). In general.
 - (2). Food products.
61. Transportation of property and animals.
 - (1). In general.
 - (1.5). Where both termini in same state.
 - (2). Liabilities and penalties on transportation.
 - (3). Charges.
 - (4). Discrimination.
62. Transportation of passengers.
 - 62.1. Electricity.
 - 62.2. Gas.
 - 62.3. Insurance.
 - 62.4. Trade associations and exchanges; securities dealings.
 - 62.5. Agriculture.
 - 62.6. Stockyards and packing houses.
 - 62.7. Sports, entertainment, and recreation.

(C) MONOPOLIES AND TRADE REGULATION.

- 62.10. Monopolies and anti-trust laws in general.
 - (1). In general.
 - (2). Particular products or lines of commerce.
- 62.12. Trade regulation in general; trademarks and unfair competition.
- 62.13. Discrimination in price, services, or facilities.
- 62.14. Pleading and evidence.

(D) EMPLOYMENT OF LABOR.

1. IN GENERAL.

- 62.20. Employment generally.
- 62.21. Employers' liability.

2. LABOR RELATIONS.

- 62.30. In general.
- 62.31. Substantiality of impact and volume of business.
- 62.32. Particular businesses.
 - (1). In general.

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II. APPLICATION TO PARTICULAR SUBJECTS AND METHODS OF REGULATION.(Cont'd)

(2). Construction business.

62.34. Labor contracts; right to work.

62.35. Union duties and liabilities.

62.36. Pleading and evidence.

3. WAGES AND HOURS.

62.40. In general.

62.41. Local business or employment; related businesses.

62.42. What constitutes commerce.

62.43. Engagement in commerce.

62.44. Production of goods for commerce.

(1). In general.

(2). Production.

62.46. Goods.

62.47. Occupation necessary to production of goods for commerce.

62.48. Volume of interstate business.

62.49. Particular business or activity.

62.50. Building operation or maintenance.

62.51. Building or construction work in general.

62.52. Construction and maintenance of instrumentalities of commerce.

62.53. Government contractors.

62.54. Manufacturing in general.

62.55. Mining and quarrying.

62.56. Oil production and distribution.

62.57. Transportation.

62.58. Warehousing and storing.

62.59. Wholesale and retail distributors.

62.60. Nature of employee's duties as controlling.

62.61. Work in part in interstate commerce.

62.62. Particular employees.

62.63. Building maintenance employees; watchmen and guards.

62.64. Clerical and office employees.

62.65. Mechanics and repairmen.

62.66. Trucking and delivery employees.

62.67. Pleading and evidence.

(E) LICENSES AND TAXES.

62.70. Taxation in general.

62.71. — In general.

62.75. — Discrimination.

62.80. — Multiple taxation; apportionment.

II. APPLICATION TO PARTICULAR SUBJECTS AND METHODS OF REGULATION.(Cont'd)

63. Licenses and privilege taxes.

63.5. — In general.

63.10. — Particular subjects and taxes.

63.15. — Motor vehicles and carriers.

64. — Mercantile business in general.

64.5. — Production and severance taxes.

65. — Brokers and factors.

66. — Commercial agents.

67. — Canvassers and solicitors.

68. — Hawkers and peddlers.

69. — Corporate franchises and privileges.

(1). In general.

(1.5). Registration, certification, or qualification.

(2). Carriers.

70. — Corporate receipts, earnings, or dividends.

71. Taxation of property.

71.1. — In general.

72. — Property employed in commerce, in general.

73. — Means and instrumentalities of commerce.

74. — Corporate capital and securities.

74.5. Sales and use taxes.

(1). In general.

(2). Particular subjects and transactions.

(3). Selective taxes.

74.15. Income taxes.

74.20. Gross receipts taxes.

(F) INTOXICATING LIQUORS.

74.30. Subjects and regulations in general.

74.35. Powers reserved to states.

74.40. Licenses and taxes.

(G) CIVIL RIGHTS.

74.50. Subjects and regulations in general.

74.55. Public accommodations.

74.60. Carriers.

74.65. Employment.

74.70. Limitations on travel.

(H) IMPORTS AND EXPORTS.

75. Subjects and regulations in general.

76. Revenue measures in general.

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II. APPLICATION TO PARTICULAR SUBJECTS AND METHODS OF REGULATION.(Cont'd)

- 77. State revenue measures.
- 77.5. — In general.
- 77.10. — Imports.
 - (1). In general.
 - (2). Continuation and termination of import status.
 - (3). Original package doctrine.
- 77.15. — Exports.
 - (1). In general.
 - (2). Commencement and continuation of export status.
- 78. — Tonnage.

(I) CIVIL REMEDIES.

- 80. Remedies and proceedings in general.
- 80.5. Arbitration.
- 80.10. Foreign corporations, suits by or against.
- 81. Execution of judicial process.
- 81.5. Injunction.

(J) OFFENSES AND PROSECUTIONS.

- 82. State offenses and prosecutions.
- 82.5. Federal offenses and prosecutions.
- 82.6. — In general.
- 82.10. — Offenses involving activity unlawful under state law.

(K) MISCELLANEOUS SUBJECTS AND REGULATIONS.

- 82.20. Subjects and regulations in general.
- 82.25. Contracts in general.
- 82.30. Navigation, shipping, and related matters.
- 82.35. Public highways, navigable waters, and state lands.
- 82.40. Fishing.
- 82.45. Aviation.
- 82.50. Weapons and explosives.
- 82.55. Obscenity.
- 82.60. Criminal or racketeer influenced and corrupt organizations.

Includes only effect on interstate commerce. Other matters formerly classified to ~~82.70-82.74~~ are now classified to the topic RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS.

III. INTERSTATE COMMERCE COMMISSION.

(A) ORGANIZATION AND AUTHORITY.

- 83. Creation and organization.
- 83.5. Constitutional and statutory provisions.
- 84. Compensation and expenses.
- 85. Authority and functions in general.
 - (1). In general.
 - (2). Rules and regulations.
 - (4). Telegraphs and telephones.
- 85.1. Regulation of carriers in general; railroads and pipe lines.
- 85.2. — In general.
- 85.3. — Preferences and discriminations.
- 85.4. — Routes and connections.
- 85.5. — Car service.
- 85.6. — Certificates and extension or abandonment of lines.
- 85.7. — Combinations and consolidations of carriers; agreements.
- 85.8. — Facilities and equipment.
- 85.9. — Accounts, funds, and securities of carriers.
- 85.10. — Valuation and ascertainment of income.
- 85.11. Rates and charges, regulation.
- 85.12. — In general.
- 85.13. — Construction of tariffs.
- 85.14. — Factors considered in fixing rates.
- 85.15. — Reasonableness of rates.
- 85.16. — Preferential and discriminatory rates.
- 85.17. — Maximum and minimum rates.
- 85.18. — Joint and through rates.
- 85.19. — Division of joint rates.
- 85.20. — Long and short haul rates.
- 85.21. — Intrastate rates.
- 85.22. — Demurrage and storage charges.
- 85.23. — Compensation to shippers for incidental services.
- 85.24. Motor carriers, regulation.
- 85.25. — In general.
- 85.26. — Vehicles and transportation excepted from regulation.
- 85.27. — Certificates and permits.
 - (.5). In general.
 - (1). Issuance in general.
 - (2). Grounds for grant or denial and matters considered.

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III. INTERSTATE COMMERCE COMMISSION.(Cont'd)

- (3). Construction and operation.
- (4). Modification, revocation or suspension.
- 85.28. — Terms and conditions of certificate or permit.
 - (1). In general.
 - (2). Railroads and their affiliates.
 - (3). Routes and termini; radial service.
 - (4). Commodity restrictions.
- 85.29. — "Grandfather" rights.
 - (1). In general.
 - (2). Persons entitled in general.
 - (3). Bona fide operation.
 - (4). Time and continuity of service.
 - (5). Scope and limitation of rights.
- 85.30. — Transfer of certificates or permits or of carrier's property.
 - (1). In general.
 - (2). Lease and interchange of equipment.
- 85.31. — Traffic and safety regulations in general; protection of highways.
- 85.32. — Employees' qualifications and hours of service.
 - (1). In general.
 - (2). Employees covered in general.
 - (3). Particular employees.
- 85.33. — Rates and charges.
- 85.34. Water carriers, regulation.
- 85.35. Freight forwarders, regulation.
- 85.36. Motor transportation brokers regulation.
- 89. Primary jurisdiction; judicial remedies prior to or pending proceedings before commission.
 - (1). In general.
 - (2). Determination of reasonableness of tariffs or practices.
 - (3). Construction of tariffs or rules.
 - (4). Relief against preferences and discriminations.
 - (5). Actions for overcharges.
 - (6). Actions for damages or reparation.
 - (7). Restraining proposed tariffs.
 - (7.1). — In general.
 - (8). — Pending determination of reasonableness.
 - (9). Restraining rebates.

III. INTERSTATE COMMERCE COMMISSION.(Cont'd)

- (10). Compelling or restraining acceptance and transportation of goods.
- (11). Remedies for refusal of adequate car service.
- (12). Division of joint rates.
- (13). Anti-trust laws, proceedings under.
- (14). Other particular cases.

(B) PROCEEDINGS BEFORE COMMISSION.

- 99. In general.
- 100. Complaints and investigations.
- 101. Limitations and laches.
- 102. Parties.
- 103. Notice.
- 104. Evidence in general.
- 105. Presumptions and burden of proof.
- 106. Weight and sufficiency of evidence.
- 106.1. — In general.
- 107. — Certificates and permits in general; extension or abandonment of lines.
- 108. — Motor carriers' certificates and permits in general.
- 109. — "Grandfather" rights.
- 110. — Rates and charges in general.
- 111. — Joint and through rates and divisions.
- 112. — Intrastate rates.
- 113. — Reparation and damages.
- 114. Witnesses and production of evidence.
- 115. Hearing and determination.
- 115.1. — In general.
- 116. — Necessity of hearing.
- 117. — Divisions, individual commissioners, joint boards, and examiners.
- 118. Rehearing or reconsideration.
- 119. Report and findings.
- 119.1. — In general.
- 120. — Facts and conclusions to be found and sufficiency in general.
- 121. — Certificates and permits, sufficiency of findings.
- 122. — Rates and charges in general, sufficiency.
- 123. — Intrastate rates, sufficiency.
- 124. — Reparation, sufficiency.
- 125. — Construction and operation.
- 126. Orders of commission.

83. COMMERCE

III. INTERSTATE COMMERCE COMMISSION.(Cont'd)

- 126.1. — In general.
- 127. — Prohibitory or cease and desist orders.
- 128. — Form and requisites.
- 129. — Construction, operation and effect.
- 130. — Conclusiveness and collateral attack.
- 131. — Car service orders.
- 132. — Rate orders.
 - (1). In general.
 - (2). Suspension or cancellation of rates or tariffs.
 - (3). Maximum and minimum rates and removal of discrimination.
 - (4). Joint and through rates and divisions.
 - (5). Intrastate rates.
- 133. — Amendment, modification, vacation or suspension of orders.
- 134. Reparation or damages.
- 134.1. — In general.
- 135. — Excessive, unreasonable or discriminatory charges.

(C) JUDICIAL REVIEW.

- 151. In general.
- 152. Nature and form of remedy and jurisdiction.
- 153. Decisions reviewable.
- 153.1. — In general.
- 154. — Negative or affirmative nature.
- 155. — Reparation or damages.
- 156. Presentation and reservation before commission of grounds of review.
- 157. Time of proceeding.
- 158. Right of review and parties.
- 159. Supersedeas or stay; interim relief.
- 160. Record.
- 161. Scope and extent of review in general.
- 162. Additional proofs and trial de novo.
- 163. Presumptions and burden of proof.
- 164. Limitation of scope of review in general.
- 165. Public interest, convenience and necessity.
- 166. Theory and grounds of decision.
- 167. Discretion of commission.
- 168. Wisdom, judgment, or expediency.
- 169. Arbitrary, unreasonable or capricious action.

III. INTERSTATE COMMERCE COMMISSION.(Cont'd)

- 170. Construction of certificates, permits, tariffs, or rules.
- 171. Questions of law or fact.
- 172. Findings of commission.
- 172.1. — In general.
- 173. — Evidence supporting findings.
- 174. — Substantial evidence.
- 175. — Weight of evidence.
- 176. — Rational basis.
- 177. — Clear error.
- 178. Harmless error.
- 179. Determination in general.
- 180. Vacation or setting aside.
- 181. Remand.
- 182. Further review.
- 182.1. — In general.
- 183. — Scope of review.

(D) JUDICIAL ENFORCEMENT.

- 201. In general.
- 202. Nature and form of remedy and jurisdiction.
- 203. Decisions enforceable.
- 204. Right to enforcement and parties.
- 205. Defenses.
- 206. Proceedings in general.
- 207. Time of proceeding.
- 208. Pleading.
- 209. Hearing in general; evidence.
- 210. Scope of inquiry in general.
- 211. Fact questions.
- 211.1. — In general.
- 212. — Findings or order of commission as prima facie evidence.
- 213. Review.
- 214. Costs and fees.

83H. COMMODITY FUTURES TRADING REGULATION

SUBJECTS INCLUDED

Regulation of commodity futures trading, persons and institutions involved in such trad-

83H. COMMODITY FUTURES TRADING REGULATION

ing and persons giving advice with respect to such trading

Administrative agencies which regulate the trading of commodity futures and officers, powers and proceedings of such agencies

Violations of regulations, their effect, and remedies therefor

Criminal offenses and prosecutions relating to violations of regulations

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Organization and operation of exchanges generally, see EXCHANGES

Brokers' rights and obligations generally and as members of exchanges, see BROKERS and EXCHANGES

Application of securities, antitrust and tax laws, see SECURITIES REGULATION, ANTITRUST AND TRADE REGULATION, INTERNAL REVENUE and TAXATION

Arbitration of disputes, see ALTERNATIVE DISPUTE RESOLUTION

Regulations pertaining to commodities generally, see AGRICULTURE

I. REGULATION IN GENERAL, ¶1-50.

II. ADMINISTRATIVE AGENCIES, PROCEEDINGS, AND ORDERS, ¶51-70.

III. CIVIL REMEDIES IN GENERAL, ¶71-90.

IV. INJUNCTION AND RECEIVERSHIP, ¶91-100.

V. OFFENSES AND PROSECUTIONS, ¶101-102.

I. REGULATION IN GENERAL.

1. In general.
2. Constitutional and statutory provisions.
3. Rules and regulations of exchanges.
4. License or registration.
- 4.1. — In general.
5. — Eligibility; financial requirements.
6. Subjects of regulation.
- 6.1. — In general.
7. — Commodities.
8. — Contract markets, commission merchants and brokers.
9. — Advisors and commodity pool operators.

I. REGULATION IN GENERAL.(Cont'd)

10. — Options; deferred delivery or futures contracts.
11. Trading.
12. — In general.
13. — Items traded; prohibitions.
14. — Price or quantity limits.
15. — Execution of trades.
16. — Margin or credit transactions.
17. — Fraud or manipulation.
18. — Wash, cross or accommodation trading; fictitious sales or reports.
19. — Disclosure.
20. — Unauthorized or unsuitable trading; churning.
21. — Emergency powers.
 - (1). In general.
 - (2). Suspension of trading; liquidation.
 - (3). Declaration of emergency.
22. Reporting and notice requirements.
23. Effect of violation of regulations.
- 23.1. — In general.
24. — Avoidance of contracts.
25. — Liability of exchanges and officers thereof.
 - (1). In general.
 - (2). Failure to regulate.
26. — Liability of brokers or commission merchants.
27. — Vicarious liability of employers and others.
28. — Proximate cause.
29. — Persons entitled to protection.
30. Evidence.
31. Questions for jury; fact questions.

II. ADMINISTRATIVE AGENCIES, PROCEEDINGS, AND ORDERS.

51. In general.
52. Primary or exclusive jurisdiction; exhaustion of remedies.
53. Rules and regulations.
54. Enforcement in general; sanctions.
55. Suspension of trading privileges.
56. Proceedings in general; notice.
57. Investigations.
58. Compelling testimony or production of evidence; subpoenas.

83H. COMMODITY FUTURES TRADING REGULATION

II. ADMINISTRATIVE AGENCIES, PROCEEDINGS, AND ORDERS.(Cont'd)

- 59. Evidence.
- 60. Judicial review.
- 61. Reparations.

III. CIVIL REMEDIES IN GENERAL.

- 71. In general.
- 72. Right or cause of action.
- 73. Venue.
- 74. Time to sue.
- 75. Parties and process.
- 76. Pleading.
- 77. Evidence.
- 78. Trial.
- 79. Relief; disgorgement.

IV. INJUNCTION AND RECEIVERSHIP.

- 91. Injunction in general.
- 92. Proceedings.
- 93. Evidence.
- 94. Preliminary injunction; freeze orders.
- 94.1. — In general.
- 95. — Affidavits and other evidence.
- 96. Receivership.

V. OFFENSES AND PROSECUTIONS.

- 101. Offenses.
- 102. Prosecutions.

83T. COMMON INTEREST COMMUNITIES

SUBJECTS INCLUDED

Condominiums, cooperative apartments, planned communities, and other residential arrangements featuring a similar mixture of individual and common ownership

In particular, estates in realty in which individually owned lots or units in a community development are burdened by a covenant either to pay for the use and maintenance of property held in common by the individual owners or to pay assessments to an

association that provides services to the development or that enforces the covenant
Creation and termination of such communities

Conversion of an existing building to common interest ownership and protection of tenants in such a building

Use, alteration, management, and maintenance of the common property and the individual units

Unit owners' associations

Unit purchases and other transfers

Time share plans

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Associations generally, see ASSOCIATIONS

Covenants generally, see COVENANTS

Easements generally, see EASEMENTS

Ground leases generally, see ESTATES IN PROPERTY ¶13

Housing discrimination, see CIVIL RIGHTS ¶1077.5

Land sales practices laws of general application, such as the Interstate Land Sales Full Disclosure Act, see ANTITRUST AND TRADE REGULATION III

Leases and agreements for the occupation of real property in general, see LANDLORD AND TENANT

Mobile homes and mobile home parks not organized as cooperatives, see LANDLORD AND TENANT XII

Public or low-income housing, see LANDLORD AND TENANT X and UNITED STATES I(H)

Riparian and littoral rights in "dockominiums" and similar common interests, see WATER LAW ¶1250(3)

Rule against perpetuities and restraints against alienation, see PERPETUITIES

Sales of real property generally, see VENDOR AND PURCHASER

Securities laws, see SECURITIES REGULATION

Unfair trade practices and consumer protection laws of general application, see ANTITRUST AND TRADE REGULATION III

Zoning, see ZONING AND PLANNING

83T. COMMON INTEREST COMMUNITIES

- I. IN GENERAL, ¶1-19.
- II. CREATION, MODIFICATION, AND TERMINATION, ¶20-39.
- III. COMMON ELEMENTS, ¶40-59.
- IV. UNIT OWNERS' ASSOCIATION, ¶60-89.
- V. UNIT OWNERSHIP AND EXCLUSIVE RIGHT OF POSSESSION, ¶90-109.
- VI. UNIT PURCHASES AND OTHER VOLUNTARY TRANSFERS, ¶110-139.
- VII. ACTIONS AND PROCEEDINGS, ¶140-169.
- VIII. GOVERNMENT REGULATION, ¶170-173.

I. IN GENERAL.

- 1. In general.
- 2. Nature of common ownership in general.
- 3. Nature and status of condominium ownership.
- 4. — In general.
- 5. — Allocated interests in general.
- 6. — Leasehold condominium in general.
- 7. Nature and status of cooperative ownership.
- 8. — In general.
- 9. — Allocated interests in general.
- 10. — Holders of unsold shares in general.
- 11. Nature of time share interest.
- 12. — In general.
- 13. — Time share estate in general.
- 14. — Time share license in general.
- 15. Nature of ownership in other planned communities.

II. CREATION, MODIFICATION, AND TERMINATION.

- 20. In general.
- 21. Declarant, developer, or sponsor in general.
- 22. Declaration or other similar instrument.
- 23. — In general.
- 24. — Validity of covenants in general.
- 25. — Plats and plans.
- 26. — Amendment.
- 27. — Recording and notice.
- 28. — Construction, operation and effect; enforcement of covenants in general.
- 29. Property and appurtenances included; nature of interest in property estate.
- 30. Conversion of existing building.

II. CREATION, MODIFICATION, AND TERMINATION.(Cont'd)

- 31. — In general.
- 32. — Protection of building's non-purchasing tenants.
Injunctive relief, see INJUNCTION.
- 33. Special rights reserved to declarant or developer and successors.
- 34. Conversion of one form of common interest ownership to another.
- 35. Consolidation, merger, and termination.

III. COMMON ELEMENTS.

- 40. In general.
- 41. Nature and ownership of common elements.
- 42. — In general.
- 43. — Condominiums and cooperatives.
- 44. — Other planned communities.
- 45. — Limited common element.
- 46. Use.
- 47. Alteration, expansion, or improvement.
- 48. Conveyance or encumbrance.
- 49. Division or partition.
- 50. Management and maintenance.
- 51. — In general.
- 52. — Pre-turnover duties of declarant, developer, or sponsor.
- 53. — Responsibility of unit owners for condition of common areas.
- 54. — Responsibility of unit owners' association for condition of common areas.
- 55. — Contracts for management and maintenance.
 - (1). In general.
 - (2). Requisites; validity; unconscionability; terminability.
 - (3). Performance or breach.
 - (4). Responsibility of management/maintenance contractor for condition of common areas.

IV. UNIT OWNERS' ASSOCIATION.

- 60. In general.
- 61. Nature of entity; purpose in general.
- 62. Necessity.
- 63. Creation, organization, reorganization, and dissolution; membership.
- 64. Governing board; members, directors, and officers; committees.

83T. COMMON INTEREST COMMUNITIES

IV. UNIT OWNERS' ASSOCIATION. (Cont'd)

- 65. Member meetings.
- 66. Powers, duties, and functions.
- 67. — In general.
- 68. — Constitution, by-laws, and rules.
 - (1). In general.
 - (2). Validity in general.
 - (3). Adoption; amendment; repeal.
 - (4). Construction, operation, and effect.
- 69. — Contracts in general.
- 70. — Relationship with unit owners in general.
- 71. — Other particular powers, duties, and functions.
- 72. Dues, assessments, fines, and other fees.
- 73. — In general.
- 74. — Power and duty to assess or levy; validity.
- 75. — Collection, payment, and abatement.
- 76. — Lien.
 - (1). In general.
 - (2). Perfection and priority.
- 77. — Lien foreclosure; other remedies and proceedings for nonpayment.
- 78. — Funds and distributions.
- 79. Association records.
- 80. Relationship with declarant or developer in general.
- 81. Control of association or its governing board.
- 82. Contracts with declarant, developer, or affiliates.
- 83. — In general.
- 84. — Validity; unconscionability; termination rights.

V. UNIT OWNERSHIP AND EXCLUSIVE RIGHT OF POSSESSION.

- 90. In general.
- 91. Documents recognizing unit ownership or right of possession; proprietary leases.
- 92. Unit boundaries.
- 93. Use and control of unit.
- 94. — In general.
- 95. — Rules and restrictions, construction and enforcement of.
- 96. — Construction and alteration of units.
 - (1). In general.

V. UNIT OWNERSHIP AND EXCLUSIVE RIGHT OF POSSESSION. (Cont'd)

- (2). Restrictions on unit owners.
 - (3). Approval.
- 97. — Maintenance, repair, and replacement; responsibility for condition.
- 98. Involuntary termination of ownership or possession; eviction.
Injunctive relief, see INJUNCTION.
- 99. Time share units and plans.

VI. UNIT PURCHASES AND OTHER VOLUNTARY TRANSFERS.

- 110. In general.
- 111. Nature of interest transferred.
- 112. Developer or sponsor, sales or transfers by.
- 113. — In general.
- 114. — Right of tenant or occupant to purchase at time of conversion of existing building.
Injunctive relief, see INJUNCTION.
- 115. Association or cooperative corporation, sales or transfers by in general.
- 116. Unit owners, sales or transfers by in general.
- 117. Restrictions or conditions on transfer of unit.
- 118. — In general.
- 119. — Consent, approval, or right of first refusal.
- 120. — Transfer fee or other monetary condition.
- 121. — Exemptions.
- 122. — Waiver.
- 123. Disclosures, public offering statement, promotional materials and other requirements.
- 124. — In general.
- 125. — Units subject to disclosure requirements; persons or entities entitled.
- 126. — Persons or entities that must comply.
- 127. — Public offering statement; advertising and promotion.
- 128. — Other particular requisite disclosures; resale certificate.
- 129. Purchase contract, assignment of proprietary lease, and other transfers.
- 130. — In general.
- 131. — Requisites and validity in general.

85. COMMON LAW

VI. UNIT PURCHASES AND OTHER VOLUNTARY TRANSFERS. (Cont'd)

- 132. — Validity of assent; fraud or misrepresentation.
- 133. — Construction and operation.
- 134. — Modification; rescission or termination.
- 135. — Performance or breach.
- 136. — Warranties.
- 137. Transferee's rights and liabilities independent of transfer contract.

VII. ACTIONS AND PROCEEDINGS.

- 140. In general.
- 141. Nature and form of remedy.
- 142. Right of action; persons or entities entitled to sue; standing.
- 143. — In general.
- 144. — Association and members of its board.
- 145. — Derivative actions.
- 146. Conditions precedent.
- 147. Persons or entities liable.
- 148. — In general.
- 149. — Sponsor, developer, declarant and successors.
- 150. — Association and members of its board.
Assertion of business judgment rule as a defense to an action against association or its officers, see §64.
- 151. — Property manager under contract.
- 152. — Unit owner.
- 153. Jurisdiction; venue.
- 154. Process.
- 155. Limitations and laches.
- 156. Parties.
- 157. Pleading.
- 158. Evidence.
- 159. Trial or hearing; determination.
- 160. Damages and other relief.
- 161. Costs and attorney fees.

VIII. GOVERNMENT REGULATION.

- 170. In general.
- 171. Rule-making and oversight authority.
- 172. Proceedings, hearings, determinations, and orders.
- 173. Judicial review.

84. COMMON LANDS

SUBJECTS INCLUDED

Lands held by numerous proprietors or by bodies corporate or politic for the general use of themselves or the public

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Joint estates in land, see JOINT TENANCY, TENANCY IN COMMON

Rights of common in lands of others, see EASEMENTS

- 1. Nature, creation, and existence of commons.
- 2. Statutory provisions.
- 3. Lands constituting common.
- 4. Proprietors.
- 5. — In general.
- 6. — Incorporation.
- 7. — Meetings and proceedings.
- 8. — Records.
- 9. — Taxes.
- 10. Title to lands.
- 11. Control, management, and use.
- 12. Misuser.
- 13. Abandonment.
- 14. Allotment or partition.
- 15. Sales and conveyances.
- 16. Actions relating to lands or proceeds thereof.

85. COMMON LAW

SUBJECTS INCLUDED

The body of customary and statutory law recognized and adopted in the several states as the basis of their jurisprudence, not created by express enactment by the legislatures of such states

Presumptions as to its existence and proof of its rules

Its sources, principles and maxims, and its application in general

85. COMMON LAW

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Jurisdiction of courts, remedies and procedure, distinction between the common-law and other systems of jurisprudence, see ACTION, PLEADING, EQUITY, ADMIRALTY and other specific topics

Particular questions of law, statement and application of governing common-law rules, see specific topics

Statutes modifying the common-law, see STATUTES and specific topics

1. Nature and authority in general.
2. Sources and scope.
 - 2.1. — In general.
3. — Customary law in general.
4. — Christianity.
5. — Ecclesiastical law.
6. — Law merchant.
7. — English statutes.
8. — Decisions of English courts.
9. Principles and maxims.
10. Adoption and repeal.
11. — In general.
12. — Constitutions and statutes of particular states.

Statutory alteration or abrogation of common law, see STATUTES ¶1206.
13. — Constitution and laws of United States.
14. Application and operation.
15. Pleading.
16. Presumptions.
17. Evidence.

89. COMPROMISE AND SETTLEMENT

SUBJECTS INCLUDED

Adjustment of matters in dispute, before or pending suit, by mutual concessions and agreement, or of mutual accounts or debts by agreement as to the balance, and discharge from liability thereon

Nature, requisites, validity, incidents, operation and effect of such adjustment and discharge in general

Rights, liabilities and remedies of the parties

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Accounts, statements of, liabilities implied by law, see ACCOUNT STATED

Assignment of structured settlement, see ASSIGNMENTS

Consent decrees, or judgments by confession or consent, see FEDERAL CIVIL PROCEDURE ¶2397 to 2397.6 and JUDGMENT ¶71 to 73

Creditors' agreements to accept from their common debtor part of the sums due them in satisfaction of a whole, see CREDITORS' REMEDIES ¶1182

New consideration, satisfaction of debt or injury by agreements founded on, see ACCORD AND SATISFACTION

Relinquishment of right or claim by release thereof, see RELEASE

Representative or fiduciary relations, compromises by persons in, GUARDIAN AND WARD, ATTORNEY AND CLIENT, EXECUTORS AND ADMINISTRATORS and other specific topics

Settlements in or affecting insurance disputes, see INSURANCE XXVII

Stipulations between parties to proceedings, see STIPULATIONS

I. IN GENERAL, ¶1-50.

II. JUDICIAL APPROVAL, ¶51-99.

III. MARY CARTER AND HIGH-LOW AGREEMENTS, ¶100-104.

I. IN GENERAL.

1. Nature and requisites.
2. — In general.
3. — Subject-matter.
4. — Persons between whom made.

See also ¶51-72, below. Excludes parent's authority to compromise claim for injuries to child in general, see PARENT AND CHILD ¶290; and parent's compromise of such claim as defense to action by parent for loss of services, see PARENT AND CHILD ¶333, 334.
- 4.5. — Representatives and fiduciaries.
5. — Making and form of agreement.
 - (1). In general.
 - (2). Acceptance.

89. COMPROMISE AND SETTLEMENT

I. IN GENERAL.(Cont'd)

- (3). Necessity of writing.
- 6. — Consideration.
 - (.5). In general.
 - (1). Necessity and sufficiency in general.
 - (2). Unliquidated, disputed, or doubtful claims in general.
 - (3). Avoidance or settlement of suit.
 - (4). Invalid or groundless claims.
 - (5). Conflicting titles to land.
 - (6). Inadequacy.
- 7. Validity.
 - 7.1. — In general.
- 8. — Reality of assent.
 - (1). In general.
 - (2). Capacity of parties.
 - (3). Fraud or duress.
 - (4). Mistake or ignorance of law or facts.
- 9. — Legality of consideration.
- 10. Construction of agreement.
- 11. — In general.
- 12. — Matters included.
- 13. — Conditions.
- 14. Operation and effect.
- 15. — In general.
 - (1). In general.
 - (2). Compromise pending suit.
- 16. — Discharge from liability.
 - (.5). In general.
 - (1). Causes of action merged or barred in general.
 - (2). Demands not included.
 - (3). Demands arising after settlement.
- 17. — Conclusiveness.
 - (1). In general.
 - (2). Persons concluded.
- 18. Modification or rescission by parties.
 - (1). In general.
 - (2). Estoppel or waiver.
 - (3). Restoration of consideration.
 - (4). Operation and effect.
- 19. Impeachment or setting aside.
 - (.5). In general.
 - (1). Impeachment for fraud, mistake, or undue advantage only.
 - (2). Opening, correcting, or setting aside.

I. IN GENERAL.(Cont'd)

- (3). Laches.
- 20. Performance or breach of agreement.
 - (1). In general.
 - (2). Rights of parties on breach.
- 21. Enforcement.
- 22. Pleading.
- 23. Evidence.
 - (.5). In general.
 - (1). Presumptions and burden of proof.
 - (2). Admissibility.
 - (3). Weight and sufficiency.
- 24. Questions for jury.
- 25. Instructions.

II. JUDICIAL APPROVAL.

See also ¶4, above, *FEDERAL CIVIL PROCEDURE* ¶1696-1699, and *PRETRIAL PROCEDURE* ¶505.

- 51. In general.
- 52. Statutes and rules.
- 53. Necessity for approval.
 - 53.1. — In general.
- 54. — Representatives and fiduciaries.
- 55. — Class actions.
- 56. Factors, standards and considerations; discretion generally.
 - 56.1. — In general.
- 57. — Fairness, adequacy, and reasonableness.
- 58. — Opposition or approval.
- 59. — Adequacy or representation; collusion.
- 60. — View or advice of counsel.
- 61. — Particular applications.
- 62. — Employees, actions involving.
- 63. — Stockholders, actions involving.
- 64. — Antitrust and trade regulation actions.
- 65. — Securities law actions.
- 66. Proceedings.
 - 66.1. — In general.
- 67. — Class, existence and determination; parties.
- 68. — Notice and communications.
- 69. — Hearing.
- 70. — Evidence; affidavits.
- 71. — Determination; findings.

89. COMPROMISE AND SETTLEMENT

II. JUDICIAL APPROVAL.(Cont'd)

72. Construction, operation, and effect; supervision.

III. MARY CARTER AND HIGH-LOW AGREEMENTS.

100. In general.
101. Validity.
102. Disclosure requirements.
103. Operation and effect.
104. High-low agreements.

90. CONFUSION OF GOODS

SUBJECTS INCLUDED

Intermixture of goods of the same kind belonging to different owners

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Addition of different materials, see ACCES-SION

Warehousemen, intermingling of goods by, see WAREHOUSEMEN

- I. NATURE AND EFFECT, ¶1-5.
II. RIGHTS AND REMEDIES OF PERSONS INTERESTED, ¶6-15.

I. NATURE AND EFFECT.

1. Application of doctrine in general.
2. Nature and extent of intermixture.
3. — In general.
4. — Goods capable of identification and separation.
5. Intermixture by mistake or accident, and wrongful intermixture.

II. RIGHTS AND REMEDIES OF PERSONS INTERESTED.

6. Rights as to property.
6.1. — In general.
7. — Owners in general.
8. — Owners and bailees, agents, or trustees.

II. RIGHTS AND REMEDIES OF PERSONS INTERESTED.(Cont'd)

9. — Mortgagors and mortgagees.
10. Right to compensation or damages.
11. Rights of creditors and other third persons.
12. Remedies of owners and others interested.
13. Evidence as to ownership or interest.
14. Measure of damages.
15. Questions for jury.

91. CONSPIRACY

SUBJECTS INCLUDED

Combinations of two or more persons to do an unlawful act, whether such act be the object of the combination or means of accomplishing that object, and whether it be injurious to private persons only or to the public

Nature and extent of liability for injuries caused by such conspiracies

Actions for damages therefor

Criminal responsibility for conspiracies in general, and prosecution and punishment thereof as public offenses

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Declarations and admissions of conspirators as evidence, and testimony of conspirators, see CRIMINAL LAW

Monopolization of trade, combinations for, see ANTITRUST AND TRADE REGULATION

- I. CIVIL LIABILITY, ¶1-22.
(A) ACTS CONSTITUTING CONSPIRACY AND LIABILITY THEREFOR, ¶1-14.
(B) ACTIONS, ¶15-22.
II. CRIMINAL RESPONSIBILITY, ¶23-51.
(A) OFFENSES, ¶23-41.

91. CONSPIRACY

II. CRIMINAL RESPONSIBILITY—Cont'd

(B) PROSECUTION, *§*42–50.

(C) SENTENCE AND PUNISHMENT,
*§*51.

I. CIVIL LIABILITY.

(A) ACTS CONSTITUTING CONSPIRACY AND LIABILITY THEREFOR.

1. Nature and elements in general.
- 1.1. — In general.
2. — Combination.
3. — Object.
4. — Means.
5. — Overt act.
6. — Damage caused.
7. Conspiracy to injure in person or reputation.
- 7.5. Conspiracy to interfere with civil rights.
 - (1). In general.
 - (2). Rights or privileges involved.
 - (3). Color of state law; state action.
8. Conspiracy to injure in property or business.
9. Conspiracy to defraud.
10. Conspiracy to hinder, delay, or defeat creditors.
11. Defenses.
12. Persons liable.
13. — In general.
14. — Joint or several liability.

(B) ACTIONS.

15. Nature and form.
16. Time to sue and limitations.
See also LIMITATION OF ACTIONS.
17. Parties.
18. Pleading.
19. Evidence.
20. Damages.
21. Trial.
22. Judgment and review.

II. CRIMINAL RESPONSIBILITY.

(A) OFFENSES.

23. Nature and elements of criminal conspiracy in general.
- 23.1. — In general.
- 23.5. — Constitutional and statutory provisions.
24. — Combination or agreement.

II. CRIMINAL RESPONSIBILITY.(Cont'd)

- (1). In general.
- (2). Single or multiple conspiracies.
- (3). Wheel or chain conspiracies; unity of knowledge, acquaintance, and participation.
- (4). Necessity of culpable coconspirator.
- (4.1). — In general.
- (5). — Corporations and their agents.
- (6). — Effect of acquittal, dismissal, or discharge of alleged coconspirator.
- (7). — Informer or government agent as coconspirator.
- (8). — Unindicted or unknown coconspirators.
- 24.5. — Knowledge and intent.
*Excludes extent of knowledge of individuals as determinative of the existence of single conspiracy, see *§*24(2, 3), above.*
- 24.10. — Success; attaining objective.
*Excludes necessity that substantive crime be committed, see *§*28(2), below.*
- 24.15. — Duration.
*Excludes change of personnel, passage of time, etc., as establishing successive conspiracies, see *§*24(2, 3), above.*
25. — Object.
26. — Means.
27. — Overt act.
28. Conspiracy to commit crime.
 - (1). In general.
 - (2). Substantive offense distinguished.
 - (3). Particular crimes.
29. Conspiracy to injure in person or reputation.
- 29.5. Conspiracy against exercise of civil rights.
 - (1). In general.
 - (2). Rights or privileges involved.
30. Conspiracy to injure in property or business.
31. Conspiracy to blackmail or extort money.
32. Conspiracy to defraud in general.
33. Conspiracy to defraud government.
 - (1). In general.
 - (2). Particular offenses and acts.
 - (2.1). — In general.
 - (3). — Relating to corporations owned or controlled by government.

91. CONSPIRACY

II. CRIMINAL RESPONSIBILITY.(Cont'd)

- (4). — Relating to public lands.
- (5). — Relating to government securities and obligations.
- (6). — Relating to contracts and sales.
- (7). — Relating to customs or revenue laws.
- 34. Conspiracy to obstruct or pervert justice or hinder the execution of law.
- 35. Conspiracy to violate morality or decency.
- 36. Grade or degree.
- 37. Merger in offense committed.
- 38. Defenses.
- 39. Persons liable.
- 40. — In general.
- 40.1. — Knowledge, intent, and participation.
- 40.2. — Persons incapable of committing substantive offense.
- 40.3. — Persons joining after formation of conspiracy.
- 40.4. — Withdrawal.
- 41. — Acts of coconspirators.

(B) PROSECUTION.

- 42. Preliminary proceedings.
- 43. Indictment or information.
 - (1). In general.
 - (2). Combination.
 - (3). Means.
 - (4). Knowledge and intent.
 - (5). Overt act and accomplishment of object.
 - (6). Conspiracy to commit crime.
 - (7). Conspiracy to injure in property or business.
 - (8). Conspiracy to extort money or against exercise of civil rights.
 - (9). Conspiracy to defraud in general.
 - (10). Conspiracy to defraud government.
 - (11). Conspiracy to obstruct justice or impede administration of laws.
 - (12). Issues, proof, and variance.
- 44. Evidence.
 - 44.1. — In general.
 - 44.2. — Presumptions and burden of proof.

II. CRIMINAL RESPONSIBILITY.(Cont'd)

- 45. — Admissibility in general.
- 46. — Overt acts.
- 47. — Weight and sufficiency.
 - (1). In general.
 - (2). Circumstantial evidence.
 - (3). Particular conspiracies.
 - (3.1). — In general.
 - (4). — Fraud and false pretenses in general.
 - (5). — Mail and wire fraud.
 - (6). — Fraud upon government.
 - (7). — Gaming and lotteries.
 - (8). — Homicide, assault, rape, kidnapping, and abortion.
 - (9). — Internal revenue violations.
 - (10). — Intoxicating liquors.
 - (11). — Larceny, embezzlement, burglary, and robbery; stolen property.
 - (12). — Narcotics and dangerous drugs.
 - (13). — Obstructing justice, bribery, and perjury.
- 48. Trial.
 - 48.1. — Questions for jury.
 - (1). In general.
 - (2). Particular conspiracies.
 - (2.1). — In general.
 - (3). — Fraud.
 - (4). — Intoxicating liquors and narcotics.
 - 48.2. — Instructions.
 - (1). In general.
 - (2). Particular conspiracies.
 - 48.3. — Other matters.

(C) SENTENCE AND PUNISHMENT.

- 51. In general.

92. CONSTITUTIONAL LAW

SUBJECTS INCLUDED

The organic and fundamental law regulating the structure, frame, and methods of ad-

92. CONSTITUTIONAL LAW

ministration of government, and the relations between governments and those subject to them in general

More particularly, written instruments enacted as the supreme and paramount law

Adoption, amendment, and revision of written constitutions

Construction, operation, effect, and enforcement of constitutions

Distribution of powers and functions of government among different departments

Constitutional guarantees that provide broad protection of personal, political, or property rights, including, among others, due process, equal protection, privileges or immunities, ex post facto prohibitions, obligation of contract, freedom of speech, freedom of religion, right to privacy, freedom of association, right to travel, right of assembly, right to petition for redress of grievances, and access to courts

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Constitutional provisions that are limited in scope to narrow subjects, narrow powers and functions of governments, or particular political bodies or institutions

Abortion rights in general, see ABORTION AND BIRTH CONTROL

Actions to vindicate constitutional rights, see CIVIL RIGHTS

Appeal and error, constitutional provisions unique to, see APPEAL AND ERROR, COURTS VI(B), CRIMINAL LAW, FEDERAL COURTS

Appointments clause, see UNITED STATES

Appropriations clause, see UNITED STATES

Arrest, constitutional provisions unique to, see ARREST

Bail, excessiveness of, see BAIL

Bear arms, right to, see WEAPONS

Commerce, regulation of, see COMMERCE

Compulsory process, see WITNESSES

Confrontation of witnesses, see CRIMINAL LAW

Constitutional torts, see CIVIL RIGHTS

Counsel, assistance of, see CRIMINAL LAW, TRIAL

Criminal proceedings, constitutional provisions unique to, see CRIMINAL LAW

Cruel and unusual punishment, see SENTENCING AND PUNISHMENT

Double jeopardy, see DOUBLE JEOPARDY

Eminent domain, constitutional provisions unique to, see EMINENT DOMAIN

Federal preemption of state law, see STATES

Fines, excessiveness of, see FINES

Full faith and credit, see JUDGMENT, STATES

Guaranty of republican form of government, see STATES

Habeas corpus proceedings to vindicate constitutional rights, see HABEAS CORPUS

Import/export clause, see CUSTOMS DUTIES

Indictment, necessity of, see INDICTMENT AND INFORMATION

Intoxicating liquors, constitutional provisions unique to, see INTOXICATING LIQUORS

Jury, constitutional provisions unique to, see JURY

Marriage, constitutional provisions unique to, see MARRIAGE AND COHABITATION

Necessary and proper clause, see UNITED STATES

Political subdivisions of states, constitutional provisions as to organization and powers, see COUNTIES, EDUCATION, MUNICIPAL CORPORATIONS, and other specific topics

Proportionate penalties, see SENTENCING AND PUNISHMENT

Public employees and officials, constitutional provisions relating to appointment, qualifications, or discharge, see MUNICIPAL CORPORATIONS, OFFICERS AND PUBLIC EMPLOYEES, STATES, UNITED STATES, and other specific topics

Qualifications clause, see UNITED STATES

Retroactivity of statutes, see STATUTES

Searches and seizures, constitutional provisions unique to, see SEARCHES AND SEIZURES

Self-incrimination, see CRIMINAL LAW, WITNESSES

Severability of unconstitutional statutory provisions, see STATUTES

Single-subject requirement for statutes, see STATUTES

92. CONSTITUTIONAL LAW

Sovereign immunity in federal court, see
FEDERAL COURTS

Special and local laws, see STATUTES

Speech or debate clause, see UNITED
STATES

Speedy trial, see CRIMINAL LAW

Standing to raise non-constitutional claims,
see ACTION, FEDERAL CIVIL PROCEDURE,
and other specific topics

State government, finances, and powers, constitutional provisions unique to, see
STATES

Statutes, constitutional provisions relating to
enactment and form, see STATUTES

Supremacy of federal law, see STATES

Takings clause, see EMINENT DOMAIN

Titles of statutes, see STATUTES

Treaties, see TREATIES

Victims' rights, see CRIMINAL LAW

Uniformity of statutes, see STATUTES

Uniformity of taxation, see TAXATION

I. NATURE AND AUTHORITY OF CONSTITUTIONS, ¶500–504.

II. ADOPTION OF CONSTITUTIONS, ¶505–514.

III. AMENDMENT AND REVISION OF CONSTITUTIONS, ¶515–574.

(A) IN GENERAL, ¶515–519.

(B) UNITED STATES CONSTITUTION, ¶520–524.

(C) STATE CONSTITUTIONS, ¶525–574.

1. IN GENERAL, ¶525–529.

2. LEGISLATIVE POWERS AND PROCEEDINGS, ¶530–534.

3. CONSTITUTIONAL CONVENTIONS, ¶535–539.

4. SUBMISSION TO POPULAR VOTE; INITIATIVE, ¶540–574.

IV. ORDINANCES AND SCHEDULES APPENDED TO CONSTITUTION, ¶575–579.

V. CONSTRUCTION AND OPERATION OF CONSTITUTIONAL PROVISIONS, ¶580–664.

(A) GENERAL RULES OF CONSTRUCTION, ¶580–624.

(B) TIME OF TAKING EFFECT, ¶625–629.

(C) RETROACTIVE OPERATION, ¶630–634.

V. CONSTRUCTION AND OPERATION OF CONSTITUTIONAL PROVISIONS—Cont'd

(D) CONSTRUCTION AS GRANT OR LIMITATION OF POWERS, RETAINED RIGHTS, ¶635–639.

(E) SELF-EXECUTING PROVISIONS, ¶640–654.

(F) CONSTITUTIONALITY OF STATUTORY PROVISIONS, ¶655–664.

VI. ENFORCEMENT OF CONSTITUTIONAL PROVISIONS, ¶665–1049.

(A) PERSONS ENTITLED TO RAISE CONSTITUTIONAL QUESTIONS; STANDING, ¶665–944.

1. IN GENERAL, ¶665–679.

2. PARTICULAR CLASSES OF PERSONS, ¶680–694.

3. PARTICULAR QUESTIONS OR GROUNDS OF ATTACK IN GENERAL, ¶695–724.

4. PARTICULAR CONSTITUTIONAL PROVISIONS IN GENERAL, ¶725–734.

5. VAGUENESS IN GENERAL, ¶735–764.

6. OVERBREADTH IN GENERAL, ¶765–794.

7. FIRST AMENDMENT IN GENERAL, ¶795–824.

8. FREEDOM OF RELIGION AND CONSCIENCE, ¶825–854.

9. FREEDOM OF SPEECH, EXPRESSION, AND PRESS, ¶855–884.

10. DUE PROCESS, ¶885–914.

11. EQUAL PROTECTION, ¶915–944.

(B) ESTOPPEL, WAIVER, OR FORFEITURE, ¶945–954.

(C) DETERMINATION OF CONSTITUTIONAL QUESTIONS, ¶955–1049.

1. IN GENERAL, ¶955–974.

2. NECESSITY OF DETERMINATION, ¶975–989.

3. PRESUMPTIONS AND CONSTRUCTION AS TO CONSTITUTIONALITY, ¶990–1029.

4. BURDEN OF PROOF, ¶1030–1044.

5. EFFECT OF DETERMINATION, ¶1045–1049.

VII. CONSTITUTIONAL RIGHTS IN GENERAL, ¶1050–1129.

(A) IN GENERAL, ¶1050–1064.

(B) PARTICULAR CONSTITUTIONAL RIGHTS, ¶1065–1129.

VIII. VAGUENESS IN GENERAL, ¶1130–1139.

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- IX. OVERBREADTH IN GENERAL, ¶1140-1149.
- X. FIRST AMENDMENT IN GENERAL, ¶1150-1209.
 - (A) IN GENERAL, ¶1150-1169.
 - (B) PARTICULAR ISSUES AND APPLICATIONS, ¶1170-1209.
- XI. RIGHT TO PRIVACY, ¶1210-1279.
 - (A) IN GENERAL, ¶1210-1224.
 - (B) PARTICULAR ISSUES AND APPLICATIONS, ¶1225-1279.
- XII. FREEDOM OF TRAVEL AND MOVEMENT, ¶1280-1289.
- XIII. FREEDOM OF RELIGION AND CONSCIENCE, ¶1290-1429.
 - (A) IN GENERAL, ¶1290-1309.
 - (B) PARTICULAR ISSUES AND APPLICATIONS, ¶1310-1429.
- XIV. RIGHT OF ASSEMBLY, ¶1430-1434.
- XV. RIGHT TO PETITION FOR REDRESS OF GRIEVANCES, ¶1435-1439.
- XVI. FREEDOM OF ASSOCIATION, ¶1440-1459.
- XVII. POLITICAL RIGHTS AND DISCRIMINATION, ¶1460-1489.
- XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS, ¶1490-2309.
 - (A) IN GENERAL, ¶1490-1589.
 - 1. IN GENERAL, ¶1490-1534.
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 - (E) ADVERTISING AND SIGNS, ¶1635-1679.
 - 1. IN GENERAL, ¶1635-1639.
 - 2. ADVERTISING, ¶1640-1654.
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 - 5. BILLBOARDS, ¶1675-1679.
 - (F) POLITICS AND ELECTIONS, ¶1680-1724.
 - (G) PROPERTY AND EVENTS, ¶1725-1799.
 - 1. IN GENERAL, ¶1725-1729.
 - 2. GOVERNMENT PROPERTY AND EVENTS, ¶1730-1774.

- XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS—Cont'd
- (G) PROPERTY AND EVENTS—Cont'd
- 3. GOVERNMENT MEETINGS AND PROCEEDINGS, ¶1775-1779.
- 4. PRIVATE PROPERTY, ¶1780-1784.
- 5. UTILITY POLES, ¶1785-1789.
- 6. ZONING AND LAND USE, ¶1790-1794.
- 7. HEALTH CARE FACILITIES, ¶1795-1799.
- (H) LAW ENFORCEMENT; CRIMINAL CONDUCT, ¶1800-1824.
- (I) HARASSMENT AND THREATS, ¶1825-1839.
- (J) NOISE AND SOUND AMPLIFICATION, ¶1840-1844.
- (K) PROTESTS AND DEMONSTRATIONS IN GENERAL, ¶1845-1859.
 - 1. IN GENERAL, ¶1845-1849.
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- (L) CHALLENGING OR RESISTING GOVERNMENT, ¶1860-1869.
- (M) SOLICITING, CANVASSING, PAMPHLETING, LEAFLETING, AND FUNDRAISING, ¶1870-1884.
- (N) ENTERTAINMENT, ¶1885-1904.
- (O) LABOR AND EMPLOYMENT IN GENERAL, ¶1905-1924.
- (P) PUBLIC EMPLOYEES AND OFFICIALS, ¶1925-1964.
- (Q) EDUCATION, ¶1965-2034.
 - 1. IN GENERAL, ¶1965-2004.
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- (R) ARMED SERVICES, ¶2035-2039.
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- (Y) SEXUAL EXPRESSION, ¶2180-2269.
- (Z) PRISONS AND PRETRIAL DETENTION, ¶2270-2309.

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XXIV. PRIVILEGES OR IMMUNITIES; EMOLUMENTS—Cont'd

(A) IN GENERAL; STATE CONSTITUTIONAL PROVISIONS—Cont'd

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502. Constitution as supreme, paramount, or highest law.

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508. — In general.

509. — Constitutional conventions.

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531. Resolutions.

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541. Matters subject to initiative or submission.

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543. Petitions.

544. — In general.

545. — Sufficiency.

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548. Title in general.

549. Election in general.

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III. AMENDMENT AND REVISION OF CONSTITUTIONS.(Cont'd)

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- 563. — Particular amendments.
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V. CONSTRUCTION AND OPERATION OF CONSTITUTIONAL PROVISIONS.(Cont'd)

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- 591. — In general.
- 592. — Plain, ordinary, or common meaning.
- 593. — Existence of ambiguity.
- 594. Express mention and implied exclusion.
- 595. Intrinsic aids to construction.
- 596. — In general.
- 597. — Instrument as a whole.
- 598. — Giving effect to every word.
- 599. — Giving effect to entire instrument.
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- 602. — In pari materia.
- 603. Extrinsic aids to construction in general.
- 604. History in general.
- 605. Contemporary circumstances.
- 606. Context of the times.
- 607. Contemporaneous construction in general.
- 608. Construction by governmental entities.
- 609. — In general.
- 610. — Judicial construction.
- 611. — Legislative construction.
- 612. — Executive construction.
- 613. Relation to common law.
- 614. Relation to statutory law.
- 615. Relation to former constitution.
- 616. Relation to constitutions of other jurisdictions.
- 617. — In general.
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- 619. Construction as mandatory or directory.

(B) TIME OF TAKING EFFECT.

- 625. In general.

(C) RETROACTIVE OPERATION.

- 630. In general.
- 631. Operation as to agreements previously in force.
- 632. Operation as to statutes previously in force.
- 633. Operation as to constitutional provisions previously in force.

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(D) CONSTRUCTION AS GRANT OR LIMITATION OF POWERS; RETAINED RIGHTS.

- 635. In general.
- 636. United States Constitution.
- 637. — In general.
- 638. — Application to states.
- 639. State constitutions.

(E) SELF-EXECUTING PROVISIONS.

- 640. In general.
- 641. Particular provisions.
- 642. — In general.
- 643. — Establishment and jurisdiction of courts.
- 644. — Privacy.
- 645. — Search and seizure.
- 646. — Due process.
- 647. — Equal protection.
- 648. — Open courts; access to courts.
- 649. — Self-incrimination.
- 650. — Eminent domain.
- 651. — Taxation and revenue.

(F) CONSTITUTIONALITY OF STATUTORY PROVISIONS.

- 655. In general.
- 656. Facial invalidity.
- 657. Invalidity as applied.
- 658. Statutory abrogation of constitutional right.
- 659. Statutory provision of greater protection than constitution.
- 660. Contravention of natural justice or common right.
- 661. Contravention of spirit of constitution.

VI. ENFORCEMENT OF CONSTITUTIONAL PROVISIONS.

(A) PERSONS ENTITLED TO RAISE CONSTITUTIONAL QUESTIONS; STANDING.

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1. IN GENERAL.

- 665. In general.
- 666. Bringing actions in one's own right.
- 667. Third-party standing in general.
- 668. Requirement that rights be affected.
- 669. — In general.
- 670. — Direct effect on rights.

VI. ENFORCEMENT OF CONSTITUTIONAL PROVISIONS.(Cont'd)

- 671. — Adverse effect on rights.
- 672. Requirement that complainant be injured.
- 673. Requirement that complainant be aggrieved.
- 674. Requirement of prejudicial impact on complainant.
- 675. Zone of interest.

2. PARTICULAR CLASSES OF PERSONS.

- 680. In general.
- 681. Citizens.
- 682. Residents and non-residents.
- 683. Taxpayers.
- 684. Property owners.
- 685. Voters.
- 686. Aliens.
- 687. Associations and organizations.
- 688. Governmental entities.
- 689. Public employees and officials.

3. PARTICULAR QUESTIONS OR GROUNDS OF ATTACK IN GENERAL.

- 695. In general.
- 696. Abortion and birth control.
- 697. Carriers.
- 698. Criminal law.
- 699. — In general.
- 700. — Sentencing and punishment.
- 701. — Prisons.
- 702. Education.
- 703. Elections.
- 704. Family law; marriage.
- 705. Government property in general.
- 706. Juvenile justice.
- 707. Labor and employment.
- 708. — In general.
- 709. — Public employment in general.
- 710. — Educational institutions.
- 711. — Prevailing wage laws.
- 712. — Workers' compensation.
- 713. Licenses.
- 714. — In general.
- 715. — Occupation, employment, and profession.
- 716. — Motor vehicles.
- 717. Public utilities.
- 718. Taxation.

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VI. ENFORCEMENT OF CONSTITUTIONAL PROVISIONS.(Cont'd)

- 719. Weapons.
- 720. Zoning and land use.

4. PARTICULAR CONSTITUTIONAL PROVISIONS IN GENERAL.

- 725. In general.
- 726. Discrimination in general.
- 727. Right to privacy.
- 728. Freedom of association.
- 729. Fifteenth Amendment.
- 730. Obligation of contract.
- 731. Privileges and immunities.
- 732. Separation of powers.

5. VAGUENESS IN GENERAL.

- 735. In general.
- 736. Abortion and birth control.
- 737. Carriers.
- 738. Criminal law.
- 739. — In general.
- 740. — Sentencing and punishment.
- 741. — Prisons.
- 742. Education.
- 743. Elections.
- 744. Family law; marriage.
- 745. Juvenile justice.
- 746. Labor and employment.
- 747. — In general.
- 748. — Public employment in general.
- 751. — Workers' compensation.
- 752. Licenses.
- 753. — In general.
- 754. — Occupation, employment, and profession.
- 755. — Motor vehicles.
- 756. Public utilities.
- 757. Taxation.
- 758. Weapons.
- 759. Zoning and land use.

6. OVERBREADTH IN GENERAL.

- 765. In general.
- 766. Abortion and birth control.
- 768. Criminal law.
- 769. — In general.
- 770. — Sentencing and punishment.
- 771. — Prisons.

VI. ENFORCEMENT OF CONSTITUTIONAL PROVISIONS.(Cont'd)

- 772. Education.
- 773. Elections.
- 774. Family law; marriage.
- 775. Juvenile justice.
- 776. Labor and employment.
- 777. — In general.
- 778. — Public employment in general.
- 782. Licenses.
- 783. — In general.
- 784. — Occupation, employment, and profession.
- 788. Weapons.
- 789. Zoning and land use.

7. FIRST AMENDMENT IN GENERAL.

- 795. In general.
- 796. Abortion and birth control.
- 797. Carriers.
- 798. Criminal law.
- 799. — In general.
- 800. — Sentencing and punishment.
- 801. — Prisons.
- 802. Education.
- 803. Elections.
- 804. Family law; marriage.
- 805. Government property in general.
- 806. Juvenile justice.
- 807. Labor and employment.
- 808. — In general.
- 809. — Public employment in general.
- 810. — Educational institutions.
- 813. Licenses.
- 814. — In general.
- 815. — Occupation, employment, and profession.
- 816. — Motor vehicles.
- 818. Taxation.
- 819. Weapons.
- 820. Zoning and land use.

8. FREEDOM OF RELIGION AND CONSCIENCE.

- 825. In general.
- 826. Abortion and birth control.
- 827. Carriers.
- 828. Criminal law.
- 829. — In general.
- 830. — Sentencing and punishment.

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VI. ENFORCEMENT OF CONSTITUTIONAL PROVISIONS.(Cont'd)

- 831. — Prisons.
- 832. Education.
- 834. Family law; marriage.
- 835. Government property and symbols in general.
- 836. Juvenile justice.
- 837. Labor and employment.
- 838. — In general.
- 839. — Public employment in general.
- 840. — Educational institutions.
- 843. Licenses.
- 844. — In general.
- 845. — Occupation, employment, and profession.
- 847. Public utilities.
- 848. Taxation.
- 850. Zoning and land use.

9. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.

- 855. In general.
- 856. Abortion and birth control.
- 857. Carriers.
- 858. Criminal law.
- 859. — In general.
- 860. — Sentencing and punishment.
- 861. — Prisons.
- 862. Education.
- 863. Elections.
- 864. Family law; marriage.
- 865. Government property in general.
- 866. Juvenile justice.
- 867. Labor and employment.
- 868. — In general.
- 869. — Public employment in general.
- 870. — Educational institutions.
- 873. Licenses.
- 874. — In general.
- 875. — Occupation, employment, and profession.
- 876. — Motor vehicles.
- 877. Public utilities.
- 878. Taxation.
- 879. Weapons.
- 880. Zoning and land use.

10. DUE PROCESS.

- 885. In general.

VI. ENFORCEMENT OF CONSTITUTIONAL PROVISIONS.(Cont'd)

- 886. Abortion and birth control.
- 887. Carriers.
- 888. Criminal law.
- 889. — In general.
- 890. — Sentencing and punishment.
- 891. — Prisons.
- 892. Education.
- 893. Elections.
- 894. Family law; marriage.
- 895. Juvenile justice.
- 896. Labor and employment.
- 897. — In general.
- 898. — Public employment in general.
- 899. — Educational institutions.
- 900. — Prevailing wage laws.
- 901. — Workers' compensation.
- 902. Licenses.
- 903. — In general.
- 904. — Occupation, employment, and profession.
- 905. — Motor vehicles.
- 906. Public utilities.
- 907. Taxation.
- 908. Weapons.
- 909. Zoning and land use.

11. EQUAL PROTECTION.

- 915. In general.
- 916. Abortion and birth control.
- 917. Carriers.
- 918. Criminal law.
- 919. — In general.
- 920. — Sentencing and punishment.
- 921. — Prisons.
- 922. Education.
- 923. Elections.
- 924. Family law; marriage.
- 925. Government contracts.
- 926. Juvenile justice.
- 927. Labor and employment.
- 928. — In general.
- 929. — Public employment in general.
- 930. — School and college employees.
- 931. — Prevailing wage laws.
- 932. — Workers' compensation.
- 933. Licenses.
- 934. — In general.

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VI. ENFORCEMENT OF CONSTITUTIONAL PROVISIONS.(Cont'd)

- 935. — Occupation, employment, and profession.
- 936. — Motor vehicles.
- 937. Public utilities.
- 938. Taxation.
- 939. Weapons.
- 940. Zoning and land use.

(B) ESTOPPEL, WAIVER, OR FORFEITURE.

- 945. In general.
- 946. Estoppel in general.
- 947. Waiver in general.
- 948. Contractual waiver.
- 949. Failure to plead issue.
- 950. Presumptions regarding estoppel or waiver.
- 951. Reliance on statute or availment of statutory benefits.
- 952. Wrongful conduct of complainant.
- 953. Delay in assertion of rights; laches.

(C) DETERMINATION OF CONSTITUTIONAL QUESTIONS.

1. IN GENERAL.

- 955. In general.
- 956. Right to challenge constitutionality at any time.
- 957. Notice to Attorney General.
- 958. — In general.
- 959. — Waiver of issue due to lack of notice.
- 960. Judicial authority and duty in general.
- 961. — In general.
- 962. — Sua sponte consideration of constitutionality.
- 963. Questions of law or fact.
- 964. Form and sufficiency of objection, allegation, or pleading.
- 965. — In general.
- 966. — Pleading.
- 967. — Particular claims.
- 968. Proceedings in which question is raised.
- 969. Scope of inquiry in general.

2. NECESSITY OF DETERMINATION.

Actions for declaratory judgment, see DECLARATORY JUDGMENT.

- 975. In general.

VI. ENFORCEMENT OF CONSTITUTIONAL PROVISIONS.(Cont'd)

- 976. Resolution of non-constitutional questions before constitutional questions.
- 977. Mootness.
- 978. Ripeness; prematurity.
- 979. Justiciability.
- 980. Case or controversy requirement.
- 981. Hypothetical questions.
- 982. Abstract questions.
- 983. Exhaustion of other remedies.
- 984. Examination of state constitution before federal constitution.

3. PRESUMPTIONS AND CONSTRUCTION AS TO CONSTITUTIONALITY.

- 990. In general.
- 991. Facial challenges.
- 992. "As applied" challenges.
- 993. Initiative measures.
- 994. Avoidance of constitutional questions.
- 995. Plainly unconstitutional.
- 996. Clearly, positively, or unmistakably unconstitutional.
- 997. Consideration of limiting construction.
- 998. Intent of and considerations influencing legislature.
- 999. — In general.
- 1000. — Investigation and fact-finding.
- 1001. Doubt.
- 1002. — In general.
- 1003. — Avoidance of doubt.
- 1004. — Proof beyond a reasonable doubt.
- 1005. Debatable questions.
- 1006. Particular issues and applications.
- 1007. — In general.
- 1008. — Penal statutes.
- 1009. — Economic legislation.
- 1010. — Social legislation.
- 1011. — Police power; health and safety.
- 1012. — Taxation and revenue legislation.
- 1013. — Vagueness in general.
- 1014. — Overbreadth in general.
- 1015. — Obligation of contract.
- 1016. — First Amendment in general.
- 1017. — Freedom of religion and conscience.
- 1018. — Freedom of speech, expression, and press.
- 1019. — Privileges and immunities.

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VI. ENFORCEMENT OF CONSTITUTIONAL PROVISIONS.(Cont'd)

- 1020. — Classification or discrimination in general.
- 1021. — Equal protection.
- 1022. — Due process.
- 1023. — Bills of attainder.
- 1024. Limitations of rules and special circumstances affecting them.
- 1025. — In general.
- 1026. — Rewriting to save from unconstitutionality.
- 1027. — Disappearance of presumption of constitutionality.

4. BURDEN OF PROOF.

- 1030. In general.
- 1031. Negating reasonable basis.
- 1032. Particular issues and applications.
- 1033. — In general.
- 1034. — Vagueness in general.
- 1035. — Overbreadth in general.
- 1036. — First Amendment in general.
- 1037. — Freedom of religion and conscience.
- 1038. — Freedom of speech, expression, and press.
- 1039. — Due process.
- 1040. — Equal protection.

5. EFFECT OF DETERMINATION.

- 1045. In general.
- 1046. Severability.
- 1047. Recall of decision by popular vote.

VII. CONSTITUTIONAL RIGHTS IN GENERAL.

(A) IN GENERAL.

- 1050. In general.
- 1051. Violation of statute or regulation as constitutional violation.
- 1052. Fundamental rights.
- 1053. Strict or heightened scrutiny; compelling interest.
- 1054. Intermediate scrutiny.
- 1055. Reasonableness or rationality.
- 1056. Arbitrariness.
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- 1057. Doctrine of unconstitutional conditions.

VII. CONSTITUTIONAL RIGHTS IN GENERAL.(Cont'd)

- 1058. Denial of benefits as constitutional violation.
- 1059. Chilling exercise of constitutional rights.
- 1060. Retaliation for exercise of constitutional rights.
- 1061. Applicability to governmental or private action; state action.
- 1062. Children and minors, rights of.
- 1063. Aliens, rights of.
See also ALIENS, IMMIGRATION, AND CITIZENSHIP.

(B) PARTICULAR CONSTITUTIONAL RIGHTS.

- 1065. In general.
- 1067. Bill of Rights or Declaration of Rights.
- 1068. Arbitrary power.
- 1069. Government property or facilities, use of.
- 1070. Ninth Amendment.
- 1071. — In general.
- 1072. — Weapons.
- 1073. Fourteenth Amendment in general.
Due process, see XXVII. Equal protection, see XXVI. Privileges and immunities, see XXIV(B). Enforcement of Fourteenth Amendment, see XXVIII.
- 1074. Right to education.
See also EDUCATION.
- 1075. — In general.
- 1076. — Fundamental nature of right.
- 1077. — School financing.
- 1078. Academic freedom.
First Amendment right of academic freedom, see ¶1191.
- 1079. Personal liberty.
Due process liberty interests, see XXVII.
- 1080. Personal security.
- 1081. Dignity.
- 1082. Reputation.
- 1083. Governmental duty to protect citizens.
- 1084. Safety.
- 1085. Life in general.
Abortion, see also ABORTION AND BIRTH CONTROL.
- 1086. Bodily integrity.
- 1087. Right to die.
See also HEALTH ¶913.
- 1088. Suicide.
See also HEALTH ¶913 and SUICIDE.
- 1089. Bodily restraint.

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VII. CONSTITUTIONAL RIGHTS IN GENERAL.(Cont'd)

- 1090. Personal appearance and grooming; hair.
- 1091. — In general.
- 1092. — Public employees and officials.
- 1093. Family and family law in general.
- 1094. Sex and procreation.
- 1095. Bills of attainder; bills of pains and penalties.
- 1096. — In general.
- 1097. — Punishment requirement in general.
- 1098. — Specificity requirement in general.
- 1099. — Affiliation with political party or holding of political belief, in general.
- 1100. — Particular issues and applications.
 - (1). In general.
 - (2). Criminal proceedings in general.
 - (3). Sentencing and punishment; imprisonment.
 - (4). Probation and parole.
 - (5). Sex offenders.
 - (6). Public employees and officials.
 - (7). Weapons, possession of.
 - (8). Zoning and land use.
 - (9). Aliens and immigration.
- 1101. Involuntary servitude.
- 1102. — In general.
- 1103. — Labor and employment.
- 1104. — Sentencing and punishment.
- 1105. — Prisoners; convicts.
- 1106. Imprisonment for debt.
- 1107. Pursuit of happiness.
- 1108. Right to property.
Due process property interests, see XXVII.
- 1109. — In general.
- 1110. — Rationality in general; reasonableness in general.
- 1111. — Relationship to police power or public welfare in general.
- 1112. — Particular issues and applications.
 - (1). In general.
 - (2). Nuisances.
 - (3). Intoxicating liquors.
- 1113. Liberty to choose occupation, pursue livelihood, or enjoy fruits of labor.
Due process rights, see XXVII.
- 1114. — In general.

VII. CONSTITUTIONAL RIGHTS IN GENERAL.(Cont'd)

- 1115. — Rationality in general; reasonableness in general.
 - 1116. — Relationship to police power or public welfare in general.
 - 1117. — Particular issues and applications.
 - (1). In general.
 - (2). Health care professionals.
 - 1118. Freedom of contract; liberty of contract.
Due process rights, see XXVII.
 - 1119. — In general.
 - 1120. — Exercise of police power in general; public interest or welfare in general.
 - 1121. — Particular issues and applications.
 - (1). In general.
 - (2). Construction contracts.
 - (3). Labor and employment; wages.
 - 1122. Quartering of soldiers.
 - 1123. Corruption of blood; forfeiture of estate.
 - 1124. Freedom of thought.
Freedom of religion and conscience, see XIII. Freedom of speech, expression, and press, see XXVIII.
- ### VIII. VAGUENESS IN GENERAL.
- Due process vagueness doctrine, see XXVII. First Amendment vagueness doctrine, see X. Free speech vagueness doctrine, see XVIII.*
- 1130. In general.
 - 1130.1. Rules and regulations in general.
 - 1130.2. — In general.
 - 1130.3. — Administrative rules and regulations.
 - 1130.4. — Rules of court.
 - 1130.5. Statutes in general.
 - 1130.6. Ordinances in general.
 - 1130.7. Vagueness as to covered conduct or standards of enforcement; offenses and penalties.
 - 1130.8. — In general.
 - 1130.9. — Rules and regulations.
 - 1130.10. — Statutes.
 - 1130.11. — Ordinances.
 - 1131. Vagueness on face or as applied.
 - 1132. Particular issues and applications.
 - (1). In general.
 - (2). Property.
 - (3). — In general.

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VIII. VAGUENESS IN GENERAL.(Cont'd)

- (4). — Landlord and tenant.
- (5). — Zoning, planning, and land use.
- (6). Water.
- (7). Governments and political subdivisions.
- (8). Social security, public assistance, and other government payments.
- (9). Taxation.
- (10). Labor and employment.
- (11). Workers' compensation.
- (12). Public employees and officials.
- (13). Education.
- (14). Elections, voting, and political rights.
- (15). War, national emergency, and national security.
- (16). — In general.
- (17). — Terrorism.
- (18). Trade or business.
- (19). — In general.
- (20). — Licenses, permits, and certifications in general.
- (21). — Attorneys.
- (22). — Health care professionals.
- (23). — Insurance.
- (24). — Investment, finance, and credit.
- (25). — Securities and commodities regulation.
- (26). — Intoxicating liquors.
- (27). — Public amusements, gaming, and lotteries.
- (28). Intellectual property.
- (29). Animals and plants, regulation of.
- (30). Environment and health.
- (31). Mental health.
- (32). — In general.
- (33). — Sexually dangerous persons; sex offenders.
- (34). — Chemical dependency.
- (35). Motor vehicles.
- (36). Carriers and public utilities.
- (37). — In general.
- (38). — Railroads.
- (39). — Telecommunications.
- (40). Families and children.

VIII. VAGUENESS IN GENERAL.(Cont'd)

- (41). Aliens, immigration, and citizenship.
- (42). Corporations and other organizations.
- (43). Sexual matters.
- (44). — In general.
- (45). — Abortion, contraception, and birth control.
- (46). — Sexually oriented businesses.
- (47). Criminal justice.
- (48). — In general.
- (49). — Particular offenses in general.
- (50). — Sex offenses.
- (51). — Offenses against children.
- (52). — Sex offenses against children.
- (53). — Conspiracy, racketeering, and money laundering.
- (54). — Disorderly conduct and breach of the peace.
- (55). — Drugs; controlled substances.
- (56). — Extortion, threats, stalking, and harassment.
- (57). — False pretenses and fraud.
- (58). — Kidnapping.
- (59). — Obstructing justice, bribery, and perjury.
- (60). — Sentencing and punishment in general.
- (61). — Capital punishment.
- (62). — Prisons and jails.
- (63). — Pardon and parole.
- (64). Juvenile justice.
- (65). Weapons and explosives.
- (66). Contempt.
- (67). Noise regulation.

IX. OVERBREADTH IN GENERAL.

Due process overbreadth doctrine, see XXVII. First Amendment overbreadth doctrine, see X. Free speech overbreadth doctrine, see XVIII.

- 1140. In general.
- 1140.1. Rules and regulations in general.
- 1140.2. Statutes in general.
- 1140.3. Ordinances in general.
- 1141. Substantial impact, necessity of.

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IX. OVERBREADTH IN GENERAL.(Cont'd)

- 1142. Use as last resort; sparing use.
- 1143. Particular issues and applications.
 - (1). In general.
 - (2). Zoning, planning, and land use.
 - (3). Public employees and officials.
 - (4). Education.
 - (5). Elections, voting, and political rights.
 - (6). War, national emergency, and national security.
 - (7). Trade or business.
 - (8). Mental health.
 - (9). Motor vehicles.
 - (10). Families and children.
 - (11). Sexual matters.
 - (12). — In general.
 - (13). — Abortion, contraception, and birth control.
 - (14). — Sexually oriented businesses.
 - (15). Criminal justice.
 - (16). — In general.
 - (17). — Particular offenses in general.
 - (18). — Sex offenses.
 - (19). — Offenses against children.
 - (20). — Sex offenses against children.
 - (21). — Disorderly conduct and breach of the peace.
 - (22). — Drugs; controlled substances.
 - (23). — Extortion, threats, stalking, and harassment.
 - (24). — Sentencing and punishment in general.
 - (25). — Capital punishment.
 - (26). Weapons and explosives.

X. FIRST AMENDMENT IN GENERAL.

See later divisions for particular First Amendment rights, such as freedom of religion, freedom of speech, etc.

(A) IN GENERAL.

- 1150. In general.
- 1151. Applicability to governmental or private action; state action.
- 1152. Facial challenges.

X. FIRST AMENDMENT IN GENERAL.(Cont'd)

- 1153. As applied challenges.
- 1154. Absolute nature of rights.
- 1155. Chilling effect on rights.
- 1156. Strict or heightened scrutiny; compelling state interest.
- 1157. Intermediate scrutiny.
- 1158. Narrowing, requirement of.
- 1159. Vagueness in general.
Vagueness doctrine in general, see also VIII.
- 1160. — In general.
- 1161. — Vagueness in all applications, necessity of.
- 1162. Overbreadth in general.
Overbreadth doctrine in general, see also IX.
- 1163. — In general.
- 1164. — Substantial impact, necessity of.
- 1165. — Use as last resort; sparing use.

(B) PARTICULAR ISSUES AND APPLICATIONS.

- 1170. In general.
- 1171. Retaliation in general.
- 1172. Sex in general.
- 1173. — In general.
- 1174. — Obscenity in general.
- 1175. — Pornography.
- 1176. — Sexually oriented businesses.
- 1177. Family law; marriage.
- 1178. Government property or facilities.
- 1179. Private property.
- 1180. Public employees and officials.
- 1181. — In general.
- 1182. — Forfeiture or relinquishment of rights.
- 1183. — Discharge in general.
- 1184. — Retaliation.
 - (1). In general.
 - (2). Transfer.
 - (3). Discharge; constructive discharge.
- 1185. Judges.
- 1186. Armed services; National Guard.
- 1187. Education.
- 1188. — In general.
- 1189. — Students.
 - (1). In general.
 - (2). Discipline.
- 1190. — Employees.
 - (1). In general.

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X. FIRST AMENDMENT IN GENERAL.(Cont'd)

(2). Retaliation.

1191. — Academic freedom.

Constitutional right to academic freedom, in general, see ¶1078.

1192. Government contractors.

1193. Prisons.

1194. — In general.

1195. — Reasonableness.

1196. — Retaliation.

1197. Pretrial detention.

1198. Health care decisions.

1199. — In general.

1200. — Right to refuse treatment.

1202. Zoning and land use.

1203. Access to courts in general.

Right to petition for redress of grievances, see XV. Constitutional right of access to courts, in general, see XIX.

1204. — In general.

1205. — Prisoners.

XI. RIGHT TO PRIVACY.

Tort claim for invasion of privacy, see TORTS. Privacy interests implicated in searches and seizures, see SEARCHES AND SEIZURES. Associational privacy, see XVI. Political rights and discrimination, see XVII. Abortion and birth control, see also ABORTION AND BIRTH CONTROL.

(A) IN GENERAL.

1210. In general.

1211. Relation between state and federal rights.

1212. Disclosure of personal matters.

1213. Making of personal decisions.

1214. Absolute, inviolable, or unlimited nature.

1215. Reasonable, justifiable, or legitimate expectation.

1216. Rational or reasonable basis.

1217. Compelling interest.

1218. Applicability to governmental or private action; state action.

(B) PARTICULAR ISSUES AND APPLICATIONS.

1225. In general.

1226. Children and minors in general.

1227. Records or information.

1228. — In general.

1229. — Discovery.

1230. — Public records or information.

XI. RIGHT TO PRIVACY.(Cont'd)

1231. — Medical records or information.

1232. — Mental health records or information.

1233. — Social security numbers.

1234. — Drivers' licenses.

1235. — Taxation.

1236. — Telecommunications.

1237. Sex and procreation.

1238. — In general.

1239. — Birth control.

1240. — Abortion.

1241. — Sodomy; sexual orientation.

1242. — Obscenity in general.

1243. — Pornography.

1244. — Sexually oriented businesses.

1245. — Sex offenders.

1246. — Prostitution and solicitation.

1247. Family law; marriage.

1248. — In general.

1249. — Parental rights.

1250. — Child custody and visitation.

1251. — Sexual orientation.

1252. Public employees and officials.

1253. — In general.

1254. — Personnel files and records.

1255. — Financial information.

1256. — Drug and alcohol tests.

1257. — Polygraph examinations.

1258. — Sex; dating relationships.

1259. Armed services; National Guard.

1260. — In general.

1261. — Sexual activity.

1262. Education.

1263. — In general.

1264. — Students.

(1). In general.

(2). Personal information.

1265. — Parents of students.

1266. — Employees.

1267. Government contractors.

1268. Health care decisions.

Medical records or information, see ¶1231.

1269. — In general.

1270. — Right to refuse treatment or medication.

1271. — Refusal to give specimens.

1272. — Right to die or commit suicide.

1273. Controlled substances.

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XI. RIGHT TO PRIVACY.(Cont'd)

- 1274. Prisons.
- 1275. Pretrial detention.

XII. FREEDOM OF TRAVEL AND MOVEMENT.

- 1280. In general.
- 1281. Compelling interest test.
- 1282. Residency requirements.
- 1283. Intrastate travel.
- 1284. International travel.
- 1285. Public employees.
- 1286. Child custody and visitation.
- 1287. Public welfare benefits.
- 1288. Sex offenders.

XIII. FREEDOM OF RELIGION AND CONSCIENCE.

(A) IN GENERAL.

- 1290. In general.
- 1291. Neutrality.
- 1292. Beliefs protected; inquiry into beliefs.
- 1293. Aiding, funding, financing, or subsidization of religion.
Particular issues and applications, see ¶1312 et seq.
- 1294. Establishment of religion.
- 1295. — In general.
- 1296. — Secular purpose.
- 1297. — Neutrality.
- 1298. — Advancement, endorsement, or sponsorship of religion; favoring or preferring religion.
- 1299. — Inhibiting, interfering with, or coercing religion.
- 1300. — Entanglement.
- 1301. — Aiding, funding, financing, or subsidization of religion.
- 1302. Free exercise of religion.
- 1303. — In general.
- 1304. — Freedom to believe.
- 1305. — Beliefs protected; inquiry into beliefs.
- 1306. — Burden on religion.
- 1307. — Neutrality; general applicability.
- 1308. — Strict scrutiny; compelling interest.

(B) PARTICULAR ISSUES AND APPLICATIONS.

- 1310. In general.
- 1311. Indians in general.

XIII. FREEDOM OF RELIGION AND CONSCIENCE.(Cont'd)

- 1312. Aiding, funding, financing, or subsidization of religion.

General propositions, see ¶1293 and 1301. Religious organizations, aid to, see ¶1334. Private schools, aid to, see ¶1362.

- 1313. Government meetings and proceedings.
- 1314. — In general.
- 1315. — Legislature.
- 1316. — Local governmental entities.
- 1317. — Courts.
- 1318. Government seals, insignia, emblems, logos, or mottos.
- 1319. Labor and employment.
- 1320. — In general.
- 1321. — Discrimination.
- 1322. Public officials; judges.
- 1323. Public employment.
- 1324. Armed services; selective service.
- 1325. — In general.
- 1326. — Conscientious objectors.
- 1327. Religious organizations in general.
- 1328. — In general.
- 1329. — Ecclesiastical matters.
- 1330. — Matters of faith and doctrine.
- 1331. — Internal affairs, governance, or administration; autonomy or polity.
- 1332. — Neutrality.
- 1333. — Entanglement.
- 1334. — Governmental aid, funding, financing, or subsidization.
- 1335. — Discipline.
- 1336. — Membership.
 - (1). In general.
 - (2). Discipline; expulsion.
- 1337. — Tort claims by members against organization or other members.
- 1338. — Property.
- 1339. — Labor and employment in general.
 - (1). In general.
 - (2). Discrimination.
- 1340. — Clergy; ministers.
 - (1). In general.
 - (2). Ministerial exception in general.
 - (3). Employment discrimination.
 - (4). Sexual misconduct by clergy.
- 1341. Public education.
- 1342. — In general.

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XIII. FREEDOM OF RELIGION AND CONSCIENCE.(Cont'd)

- 1343. — Students in general.
- 1344. — Employees in general.
- 1345. — Use of school facilities.
 - (1). In general.
 - (2). Access by outside organizations.
- 1346. — Plaques, dedications, or memorials.
- 1347. — Student organizations.
- 1348. — Distribution of literature or other religious items.
- 1349. — Religious, holiday, or seasonal displays or depictions.
- 1350. — Prayer or silence in general.
- 1351. — Graduation or baccalaureate ceremonies.
- 1352. — Pledge of Allegiance.
- 1353. — Flag salutes.
- 1354. — Curriculum, books, and classroom materials.
 - (1). In general.
 - (2). Evolution, creationism, or intelligent design.
 - (3). Bible.
 - (4). Health or sex education.
- 1355. — Presentations by students or visitors; student reports.
- 1356. — Immunization requirements.
- 1357. — Dress and grooming requirements.
- 1358. — Board meetings and membership.
- 1359. — Cooperation or coordination with private education.
- 1360. Charter schools.
- 1361. Home schooling.
- 1362. Private education.
- 1363. — In general.
- 1364. — Tuition; vouchers.
 - (1). In general.
 - (2). Tax deductions or credits.
- 1365. — Textbooks and classroom materials.
- 1366. — Equipment.
- 1367. — Transportation.
- 1368. — Employees.
 - (1). In general.
 - (2). Compensation.
- 1369. — School facilities.
- 1370. Post-secondary institutions.

XIII. FREEDOM OF RELIGION AND CONSCIENCE.(Cont'd)

- 1371. — In general.
- 1372. — Employees.
- 1373. Government property.
Public schools, see [1341](#).
- 1374. — In general.
- 1375. — Parks and forests in general.
- 1376. — Displays in general.
- 1377. — Holiday and seasonal displays.
- 1378. — Nativity scenes; creches.
- 1379. — Monuments and statuary.
- 1380. — Religious texts in general.
- 1381. — Ten Commandments.
- 1382. — Sale or transfer of property.
- 1383. Cemeteries and burial grounds.
- 1384. Taxation.
- 1385. — In general.
- 1386. — Religious organizations or educational institutions.
 - (1). In general.
 - (2). Exemptions.
- 1387. Sundays and other days of observance.
- 1388. Holidays.
- 1389. Solicitation; distribution of literature.
Public schools, see [1348](#). *Licenses, see* [1390](#).
- 1390. Licenses.
- 1391. — In general.
- 1392. — Drivers' licenses.
- 1393. — Intoxicating liquors.
- 1394. Health care.
- 1395. — In general.
- 1396. — Abortion and birth control.
- 1397. — Refusal of medical treatment.
Public school immunization requirements, see [1356](#).
- 1398. — Facilities.
 - (1). In general.
 - (2). Chaplains.
- 1399. — Mental health.
- 1400. Zoning and land use.
- 1401. — In general.
- 1402. — Religious organizations.
- 1403. — Permits and variances.
- 1404. Family law.
- 1405. — In general.
- 1406. — Marriage; bigamy.
- 1407. — Divorce and dissolution.
- 1408. — Parental rights in general.

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XIII. FREEDOM OF RELIGION AND CONSCIENCE.(Cont'd)

- 1409. — Child custody, visitation, and support.
- 1410. — Adoption.
- 1411. Bankruptcy.
- 1412. Protests.
- 1413. Criminal law.
- 1414. — In general.
- 1415. — Proceedings.
- 1416. — Sentencing and punishment.
- 1417. — Probation.
- 1418. — Parole.
- 1419. Controlled substances.
- 1420. Jury.
- 1421. Prisons and pretrial detention.
- 1422. — In general.
- 1423. — Indians in general.
- 1424. — Hair and grooming.
- 1425. — Diet; meals.
- 1426. — Rehabilitation and treatment programs.
- 1427. — Religious services and ceremonies; study and prayer groups.
- 1428. Juvenile justice.

XIV. RIGHT OF ASSEMBLY.

Freedom of association, see XVI. Political rights and discrimination, see XVII.

- 1430. In general.
- 1431. Government property.

XV. RIGHT TO PETITION FOR REDRESS OF GRIEVANCES.

Political rights and discrimination, see XVII.

- 1435. In general.
- 1436. Retaliation in general.
- 1437. Noerr-Pennington doctrine.
 - (1). In general.
 - (2). Antitrust.

See also ANTITRUST AND TRADE REGULATION
◊905.

- 1438. Prisoners.

XVI. FREEDOM OF ASSOCIATION.

Political rights and discrimination, see XVII.

- 1440. In general.
- 1441. Expressive association.
- 1442. Intimate association; dating relationships in general.
- 1443. Familial association.

XVI. FREEDOM OF ASSOCIATION.(Cont'd)

- 1444. Sexual association.
- 1445. Associational privacy.
- 1446. Public employees and officials.
- 1447. Education in general.
- 1448. Post-secondary institutions.
- 1449. Labor organizations; collective bargaining.
- 1450. Government property or facilities, use of.
- 1451. Prisons and pretrial detention.
- 1452. — In general.
- 1453. — Visitors.
- 1454. Discovery requests and subpoenas.

XVII. POLITICAL RIGHTS AND DISCRIMINATION.

See also ELECTION LAW.

- 1460. In general.
- 1461. Elections in general.
- 1462. Initiative and referendum; direct democracy.
- 1463. Political action committees.
- 1464. Right to run for public office in general; candidacy.
- 1465. Political parties in general.
- 1466. Voting rights and suffrage in general.
- 1467. Ballots and ballot access.
- 1468. Nominations; primary elections.
- 1469. Campaign finance, contributions, and expenditures.
- 1470. Right to instruct representatives.
- 1471. Public employees and officials.
- 1472. — In general.
- 1473. — Right to run for public office; candidacy.
- 1474. — Political beliefs or discrimination in general.
 - (1). In general.
 - (2). Adverse action.
 - (3). Discharge.
- 1475. — Political affiliation; patronage.
 - (1). In general.
 - (2). Ministerial, subordinate, or low-level employees in general.
 - (3). Confidential, policy-making, sensitive, or trust employees in general.
 - (4). Appointment and hiring; qualifications.

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XVII. POLITICAL RIGHTS AND DISCRIMINATION.(Cont'd)

- (5). Adverse action in general.
- (6). Working environment and duties; transfer and reassignment.
- (7). Promotion.
- (8). Demotion.
- (9). Discharge.
- (10). Employees of United States territories.
- 1476. Term limits.
- 1477. Judges.
- 1478. Education.
- 1479. Government contractors.
- 1480. Redistricting and reapportionment.
- 1481. Lobbying.
- 1482. Fifteenth Amendment.

XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.

(A) IN GENERAL.

1. IN GENERAL.

- 1490. In general.
- 1491. Purpose of constitutional protection.
- 1492. What is "speech".
- 1493. Relation between state and federal rights.
- 1494. Applicability to governmental or private action; state action.
- 1495. Entities protected.
- 1496. Facial challenges; facial invalidity.
- 1497. Conduct, protection of.
- 1498. Absolute nature of right.
- 1499. Censorship.
- 1500. Advocacy.
- 1501. Denial of benefits.
- 1502. Receipt of information or ideas; listeners' rights.
Heckler's veto, see ¶1552.
- 1503. Right to refrain from speaking.
- 1504. Exercise of police power; relationship to governmental interest or public welfare.
- 1505. Narrow tailoring.
- 1506. Strict or exacting scrutiny; compelling interest test.
- 1507. Viewpoint or idea discrimination.
- 1508. Time, place, or manner restrictions.
- 1509. — In general.

XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.(Cont'd)

- 1510. — Reasonableness.
- 1511. Content-neutral regulations or restrictions.
- 1512. — In general.
- 1513. — Governmental disagreement with message conveyed.
- 1514. — Narrow tailoring requirement; relationship to governmental interest.
- 1515. — Existence of other channels of expression.
- 1516. Content-based regulations or restrictions.
- 1517. — In general.
- 1518. — Strict or exacting scrutiny; compelling interest test.
- 1519. Overbreadth.
- 1520. — In general.
- 1521. — Prohibition of substantial amount of speech.
- 1522. — Invalidation of all enforcement.
- 1523. — Limiting construction.
- 1524. Vagueness.
- 1525. Prior restraints.
- 1526. — In general.
- 1527. — Presumption of invalidity.
- 1528. — Time limits on decision-making.
- 1529. Clear and present danger test.
Incitement or encouragement of crime or lawless action, see ¶1801.

2. COMMERCIAL SPEECH IN GENERAL.

- 1535. In general.
- 1536. What is "commercial speech".
- 1537. Difference in protection given to other speech.
- 1538. Overbreadth.
- 1539. False, untruthful, deceptive, or misleading speech.
- 1540. Unlawful speech or activities.
- 1541. Reasonableness; relationship to governmental interest.

3. PARTICULAR ISSUES AND APPLICATIONS IN GENERAL.

- 1545. In general.
- 1546. Children and minors.
Family law issues, such as child custody, child support, and termination of parental rights, see ¶1585.
- 1547. — In general.

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XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.(Cont'd)

- 1548. — Rights of.
- 1549. — Protection of.
- 1550. Criticism of government or officials.
- 1551. Right to gather information.
- 1552. Heckler's veto.
- 1553. Retaliation.
- 1554. Injunctions and restraining orders.
- 1555. Matters of public concern.
- 1556. Matters of private concern.
- 1557. Injurious speech.
- 1558. Violence.
Criminal offenses, see XVIII(H).
- 1559. Offensive, vulgar, abusive, or insulting speech.
Criminal offenses, see XVIII(H).
- 1560. Hate speech.
Hate crimes, see 1815.
- 1561. Profanity or swearing.
Criminal offenses, see XVIII(H).
- 1562. "Fighting words".
Criminal offenses, see XVIII(II).
- 1563. Government-sponsored speech.
- 1564. Compelled or forced speech, support, or participation.
- 1565. Government contracts.
Employees of contractors, see 1924.
- 1566. — In general.
- 1567. — Retaliation.
- 1568. Security clearances.
- 1569. Government information.
- 1570. Government records.
Court records, see XVIII(V).
- 1571. Government funding.
- 1572. Taxation.
Taxation of press, see 2081. License taxes, see 1595.
- 1573. Mail.
Postal property, see 1770. Prison mail, see 2283 et seq.
- 1574. Religious speech or activities.
Distribution of materials, see 1879.
- 1575. Books.
Bookstores, regulation of, see 1889.
- 1576. Art.
- 1577. Photography and photographs.
- 1578. Parody.
- 1579. Humor.
- 1580. Symbolic speech.
- 1581. Anonymous speech.
- 1582. Curfews.

XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.(Cont'd)

- 1583. Legal aid organizations.
 - 1584. Aliens and immigration.
 - 1585. Family law.
 - 1586. Mental health.
Sex offenders, see 1818.
- (B) LICENSES AND PERMITS IN GENERAL.
- 1590. In general.
 - 1591. Discretion in general.
 - 1592. Prior restraints.
 - 1593. Time limits for grant or denial.
 - 1594. Availability of judicial review.
 - 1595. Fees or taxes.
 - 1596. License plates.
- (C) TRADE OR BUSINESS.
- 1600. In general.
 - 1601. Labels in general.
 - 1602. Unfair trade practices.
 - 1603. Copyrights.
 - 1604. Trademarks and trade names.
 - 1605. Securities regulation.
 - 1606. Bail bonds.
 - 1607. Accountants.
 - 1608. Real estate brokers and agents.
 - 1609. Insurance.
 - 1610. Credit reporting agencies.
 - 1611. Public utilities.
 - 1612. Tobacco and cigarettes.
Smoking regulations, see 1783.
 - 1613. Intoxicating liquors.
 - 1614. Health care professions.
 - 1615. Agricultural product marketing and assessments.
Advertising, see 1650.
 - 1616. Import/export regulations.
Terrorist organizations, see 1868.
- (D) FALSE STATEMENTS IN GENERAL.
- Defamation, see XVIII(X).*
 - 1620. In general.
 - 1621. Opinion.
 - 1622. — In general.
 - 1623. — Particular issues and applications.
 - 1624. Deception; misrepresentation.
 - 1625. False reports against public employees and officials.
 - 1626. Commercial disparagement.

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XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.(Cont'd)

- 1627. Invasion of privacy.
- 1628. Emotional distress.
- 1629. Tortious interference.
- 1630. Right of publicity; misappropriation of likeness, name, or celebrity status.
Advertising, see Ⓒ1652.

(E) ADVERTISING AND SIGNS.

1. IN GENERAL.

- 1635. In general.

2. ADVERTISING.

Political or campaign advertising, see Ⓒ1709. *Advertising on government property, see* Ⓒ1754 et seq.

- 1640. In general.
- 1641. False or deceptive claims; misrepresentation.
- 1642. Government advertisements.
- 1643. Broadcasting.
- 1644. Radio.
- 1645. Product advertisements.
- 1646. Business or professional services.
- 1647. Health care.
- 1648. Abortion and birth control.
- 1649. Intoxicating liquors.
- 1650. Agricultural product marketing and assessments.
See also Ⓒ1615.
- 1651. Gambling and gaming.
- 1652. Right of publicity; misappropriation of likeness, name, or celebrity status.
See also Ⓒ1630.

3. SIGNS.

Political or campaign signs, see Ⓒ1710.

- 1655. In general.
- 1656. Difference in protection for commercial signs.
- 1657. Licenses and permits.
- 1658. Restrictions of number of signs.
- 1659. Size or height restrictions.
- 1660. Setback requirements.
- 1661. Residential signs.
- 1662. Off-premises signs.
- 1664. Temporary signs.
- 1665. Portable signs.
- 1666. Pole signs.
Utility poles, use of, see Ⓒ1785.

4. FLAGS, BANNERS, AND PENNANTS.

- 1670. In general.
- 1671. United States flag.
Flag desecration or disrespect, see Ⓒ1866.

5. BILLBOARDS.

- 1675. In general.
- 1676. Off-premises billboards.
- 1677. Size or height restrictions.
- 1678. Bans or moratoria.

(F) POLITICS AND ELECTIONS.

- 1680. In general.
- 1681. Political speech, beliefs, or activity in general.
- 1682. Tax-exempt organizations.
- 1683. Petitions in general.
- 1684. Literature and distribution thereof.
- 1685. Disclosure requirements in general.
- 1686. Candidates in general.
- 1687. Political parties or organizations in general.
- 1688. Elections, voting, or ballot access in general.
- 1689. Nominations; primary elections.
- 1690. Voter guides or pamphlets.
- 1691. Voter registration.
- 1692. Polling places.
- 1693. Ballots.
- 1694. Write-in voting.
- 1695. Campaign finance in general.
- 1696. Public funding.
- 1697. Contributions.
- 1698. — In general.
- 1699. — Limitations on amounts.
- 1700. — Corporate contributions.
- 1701. — Reporting and disclosure.
- 1702. Expenditures.
- 1703. — In general.
- 1704. — Limitations on amounts.
- 1705. — Disclosure requirements.
- 1706. — Independent expenditures in general.
- 1707. — Corporate expenditures.
- 1708. — Political parties, organizations, or committees; coordinated expenditures.
- 1709. Advertisements.
Advertising by means of telecommunications device, see XVIII(W).

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XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.(Cont'd)

- 1710. Signs.
- 1711. Initiatives.
- 1712. — In general.
- 1713. — Matters subject to initiative.
- 1714. — Petitions in general.
- 1715. — Circulation of petitions.
- 1716. — Ballots; ballot title.
- 1717. Referendum.
- 1718. — In general.
- 1719. — Petitions.
- 1720. Redistricting and reapportionment.
- 1721. Lobbying.

(G) PROPERTY AND EVENTS.

1. IN GENERAL.

- 1725. In general.

2. GOVERNMENT PROPERTY AND EVENTS.

Educational institutions, see XVIII(Q). Soliciting on government property, see 1871 et seq.

- 1730. In general.
- 1731. Time, place, and manner restrictions in general.
- 1732. Public forum in general.
- 1733. — In general.
- 1734. — Nature and requisites.
- 1735. — Justification for exclusion or limitation.
- 1736. Traditional public forum in general.
- 1737. — In general.
- 1738. — Nature and requisites.
- 1739. — Justification for exclusion or limitation.
- 1740. Limited public forum in general.
- 1741. — In general.
- 1742. — Nature and requisites.
- 1743. — Justification for exclusion or limitation.
- 1744. Designated public forum in general.
- 1745. — In general.
- 1746. — Nature and requisites.
- 1747. — Justification for exclusion or limitation.
- 1748. Non-public forum in general.
- 1749. — In general.
- 1750. — Nature and requisites.
- 1751. — Justification for exclusion or limitation.

XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.(Cont'd)

- 1752. Proprietary function of government.
- 1753. Licenses and permits in general.
- 1754. Advertising in general.
- 1755. Vendors in general.
- 1756. Religious uses.
- 1757. Religious, holiday, or seasonal displays or depictions.
- 1758. Public squares, plazas, and greens.
- 1759. Streets and highways.
- 1760. Sidewalks.
- 1761. Parks and forests.
- 1762. Parades.
- 1763. Libraries.
- 1764. Fairs, festivals, exhibitions, and conventions.
- 1765. Public housing.
- 1766. Transit systems and stations.
- 1767. Airports, aviation, and airspace.
- 1768. Courthouses and courtrooms.
See also XVIII(V).
- 1769. Legislative buildings and offices.
- 1770. Postal property.
- 1771. Restrictions imposed by, or on account of, users or licenses of governmental property.

3. GOVERNMENT MEETINGS AND PROCEEDINGS.

Judicial proceedings, see XVIII(V).

- 1775. In general.

4. PRIVATE PROPERTY.

Solicitation, see XVIII(M).

- 1780. In general.
- 1781. Landlord and tenant; leased premises.
- 1782. Stores, shopping centers, or malls.
- 1783. Smoking regulations.

5. UTILITY POLES.

- 1785. In general.

6. ZONING AND LAND USE.

Advertising and signs, see XVIII(E).

- 1790. In general.

7. HEALTH CARE FACILITIES.

Protests and picketing, see 1848 and 1854.

- 1795. In general.

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(H) LAW ENFORCEMENT; CRIMINAL CONDUCT.

Criminal proceedings, see XVIII(V)2. Officers, employment issues relating to, see 1955.

1800. In general.

1801. Incitement or encouragement of crime or lawless action.

Clear and present danger test, in general, see 1529. Fighting words, in general, see 1562.

1802. Retaliation in general.

1803. Investigation or surveillance.

1804. Searches and seizures.

1805. Decision to prosecute.

1806. Arrest.

1807. Particular offenses in general.

1808. Assault and battery.

1809. Controlled substances.

1810. Conspiracy.

1811. Trespass.

1812. Disorderly conduct.

1813. Breach of the peace; unlawful assembly.

1814. Interaction with public safety officials.

1815. Bias or hate crimes.

Cross burning, see 1834.

1816. Solicitation.

1817. Profiting from criminal activity or advocacy thereof.

1818. Sex offenders.

(I) HARASSMENT AND THREATS.

1825. In general.

1826. Harassment.

1827. — In general.

1828. — Harassment by government due to speech.

1829. Threats.

1830. — In general.

1831. — True threats.

1832. — Public employees or officials, threats against.

1833. Stalking.

1834. Cross burning.

(J) NOISE AND SOUND AMPLIFICATION.

1840. In general.

1841. Motor vehicles.

(K) PROTESTS AND DEMONSTRATIONS IN GENERAL.

Anti-government protests, see 1864. Labor protests and picketing, see 1916.

1. IN GENERAL.

1845. In general.

1846. Government property and facilities.

1847. Riots.

1848. Abortion and health care.

2. PICKETING.

1850. In general.

1851. Government property and facilities.

1852. Residences.

1853. Commercial establishments.

1854. Abortion and health care.

(L) CHALLENGING OR RESISTING GOVERNMENT.

1860. In general.

1861. Disloyalty.

1862. Advocacy of overthrowing government or revolution.

1863. Sedition; insurrection.

1864. Anti-government protests and demonstrations.

1865. Syndicalism.

1866. Flag desecration or disrespect.

1867. Espionage.

1868. Terrorist organizations.

(M) SOLICITING, CANVASSING, PAMPHLETING, LEAFLETING, AND FUNDRAISING.

Politics and elections, see XVIII(F).

1870. In general.

1871. Government property, use of.

Schools, see 1972. Press, rights of, see 2079.

1872. Licenses and permits in general.

1873. Disclosure requirements.

1874. Consent or permission requirements.

1875. Misleading, deceptive, or fraudulent activities.

1876. Residences.

1877. Commercial establishments.

1878. Placement of materials on motor vehicles.

1879. Charities or religious organizations.

1880. Begging or panhandling.

(N) ENTERTAINMENT.

Sexually oriented entertainment, see XVIII(Y).

1885. In general.

1886. Licenses and permits in general.

1887. Use of government property or facilities in general.

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XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.(Cont'd)

- 1888. Zoning and land use in general.
- 1889. Bookstores and book sellers.
Books in general, see ¶1575.
- 1890. Plays and shows.
- 1891. Theaters; theatrical productions.
- 1892. Motion pictures and videos.
- 1893. Music.
- 1894. — In general.
- 1895. — Concerts and performances.
- 1896. Dancing.
- 1897. Games in general.
- 1898. Video and computer games.
- 1899. — In general.
- 1900. — Violent games.
- 1901. Athletics.

(O) LABOR AND EMPLOYMENT IN GENERAL.

- 1905. In general.
- 1906. Applicability to governmental and private action; state action.
- 1907. Retaliation.
- 1908. Adverse action; discipline.
- 1909. Discharge.
- 1910. Labor relations.
- 1911. — In general.
- 1912. — Campaigns and attempts at organization.
- 1913. — Dues and fees.
- 1914. — Employer communications.
- 1915. — Injunctions.
- 1916. Protests and demonstrations; picketing.
- 1917. — In general.
- 1918. — Government property and facilities.
- 1919. — Violence.
- 1920. — Secondary picketing.
- 1921. — Injunctions.
- 1922. Boycotts.
- 1923. Service letters.
- 1924. Government contractors, employees of.

(P) PUBLIC EMPLOYEES AND OFFICIALS.

- 1925. In general.
- 1926. Public officials in general.
- 1927. Conditions for employment; relinquishment of rights.
- 1928. Retaliation in general.

XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.(Cont'd)

- 1929. Public or private concern; speaking as "citizen".
- 1930. Mixed public and private speech.
- 1931. Balancing of interests.
- 1932. Causation; substantial or motivating factor.
- 1933. Disruption or interference.
- 1934. Efficiency of public services.
- 1935. Internal issues; working conditions.
- 1936. Passage of time following speech or activities.
- 1937. Political speech, beliefs, or activities.
- 1938. Policy-making or other confidential employees.
- 1939. Prospective employees; failure to hire.
- 1940. Harassment.
- 1941. Discipline or reprimand.
- 1942. Change in duties or responsibilities.
- 1943. Transfer.
- 1944. Promotion.
- 1945. Suspension or placement on leave.
- 1946. Demotion.
- 1947. Discharge.
- 1948. Failure to rehire, reappoint, or reinstate.
- 1949. Dress; accessories; buttons.
- 1950. Filing of discrimination charges.
- 1951. Filing of lawsuits.
- 1952. Testimony in judicial proceedings or before administrative agencies.
- 1953. Statements to, or contact with, media.
- 1954. Health care workers.
- 1955. Police and other public safety officials.
- 1956. Firefighters and paramedics.
- 1957. Prisons; parole and probation officers.
- 1958. Attorneys, prosecutors, and Attorney General's office.
- 1959. Labor relations; collective bargaining activities.
- 1960. — In general.
- 1961. — Discipline or discharge.
- 1962. — Speech by labor organization.
- 1963. — Dues and fees.

(Q) EDUCATION.

1. IN GENERAL.

- 1965. In general.

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XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.(Cont'd)

- 1966. Pedagogical concerns in general.
- 1967. Disruption, disturbance, or interference in general.
- 1968. Access to facilities and other public places; public forum issues.
- 1969. — In general.
- 1970. — Outside persons or organizations.
- 1971. Plaques, dedications, or memorials.
- 1972. Distribution of materials.
- 1973. Classroom speech in general; assemblies.
- 1974. Curriculum, books, and classroom materials.
- 1975. Student speech or conduct.
- 1976. — In general.
- 1977. — Discipline in general.
- 1978. — Disruption, disturbance, or interference in general.
- 1979. — Threats or violence.
- 1980. — Protests and demonstrations.
- 1981. — Dress and grooming.
- 1982. Parental speech or conduct.
- 1983. Libraries.
- 1984. Student organizations.
- 1985. Student government elections.
- 1986. Student publications.
- 1987. School board officials and meetings.
- 1988. Employees.
- 1989. — In general.
- 1990. — Retaliation.
- 1991. — Public or private concern; speaking as “citizen”.
- 1992. — Political speech, beliefs, or activity.
- 1993. — Discipline or reprimand.
- 1994. — Discharge.
- 1995. — Non-renewal of contract.
- 1996. — Dress; accessories; buttons.
- 1997. — Statements to, or contact with, media.
- 1998. — Statements at board meetings.
- 1999. — Curriculum; classroom materials.
- 2000. — Coaches and other athletic department employees.
- 2001. — Administrators.
- 2002. — Employee associations; collective bargaining activities.

2. POST-SECONDARY INSTITUTIONS.

- 2005. In general.
- 2006. Access to facilities and other public places; public forum issues.
- 2007. — In general.
- 2008. — Outside persons or organizations.
- 2009. Student speech or conduct.
- 2010. — In general.
- 2011. — Discipline or retaliation.
- 2012. Protests and demonstrations.
- 2013. Activity fees or funds.
- 2014. Student government.
- 2015. Student publications.
- 2016. Employees.
- 2017. — In general.
- 2018. — Retaliation.
- 2019. — Public or private concern.
- 2020. — Discipline or reprimand.
- 2021. — Discharge.
- 2022. — Non-renewal of contract.
- 2023. — Coaches and other athletic department personnel.
- 2024. — Employee associations; collective bargaining activities.
- 2025. Law schools.

3. INTERSCHOLASTIC ASSOCIATIONS.

- 2030. In general.

(R) ARMED SERVICES.

- 2035. In general.
- 2036. Selective service and the draft.
- 2037. Members of armed services.
Sexual orientation, see ¶2266.
- 2038. Civilian employees.
- 2039. Military installations.

(S) ATTORNEYS, REGULATION OF.

- Courtroom speech, see also XVIII(V).*
- 2040. In general.
- 2041. Clients’ rights in general.
- 2042. Unlicensed practice of law.
- 2043. Admission to bar.
- 2044. Professional conduct regulations in general.
- 2045. Sanctions or discipline for unprofessional conduct, in general.
- 2046. Statements regarding judge or court officials.
- 2047. Statements regarding other attorneys.

92. CONSTITUTIONAL LAW

XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.(Cont'd)

- 2048. Solicitation.
- 2049. Advertising.

(T) JUDGES, REGULATION OF.

- 2050. In general.
- 2051. Impartiality; recusal or reassignment.
- 2052. Discipline.
- 2053. Elections.
- 2054. — In general.
- 2055. — Contributions.
- 2056. — Pledges; promises; comments on issues.

(U) PRESS IN GENERAL.

Broadcast journalists, see XVIII(W). Access to judicial proceedings and documents, see XVIII(V). Defamation, see XVIII(X). Contempt, see 2121. Advertising, see also 1640 et seq. Books in general, see 1575.

- 2070. In general.
- 2071. "Press" defined.
- 2072. Enforcement of generally applicable laws.
- 2073. Reporter's privilege.
- 2074. Disclosure of sources.
- 2075. Discovery requests and subpoenas.
- 2076. Disclosure of information about juveniles.
- 2077. Access to, and publication of, public information or records.
- 2078. Access to prisons and executions.
- 2079. Distribution of materials in public places.
- 2080. Newsracks and newsstands.
- 2081. Taxation.

(V) JUDICIAL PROCEEDINGS.

Sanctioning or disciplining attorney for unprofessional conduct, see 2045 et seq.

1. IN GENERAL.

- 2085. In general.
- 2086. Conduct of proceedings in general.
- 2087. Access to proceedings; closure.
- 2088. Discovery and subpoenas.
- 2089. Court documents or records.
- 2090. Spectators or observers.
- 2091. Class actions.
- 2092. Publicity regarding proceedings.
- 2093. — In general.

XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.(Cont'd)

- 2094. — Proceedings involving children and minors.
- 2095. — Attorney speech about pending proceedings.
- 2096. Juries.
- 2097. Witnesses.
- 2098. Costs, fees, and sanctions.
- 2099. Photographing, recording, or televising proceedings.

2. CRIMINAL PROCEEDINGS.

- 2100. In general.
- 2101. Conduct of proceedings in general.
- 2102. Admissibility of evidence.
- 2103. Sentencing and punishment.
- 2104. Probation and parole.
- 2105. Access to proceedings; closure.
- 2106. — In general.
- 2107. — Preliminary or pretrial proceedings.
- 2108. Court documents or records.
- 2109. — In general.
- 2110. — Pretrial access.
- 2111. Publicity regarding proceedings.
- 2112. — In general.
- 2113. — Proceedings involving children and minors.
- 2114. — Attorney speech about pending proceedings.
- 2115. Witnesses.
- 2116. Juries.
- 2117. Grand juries.
- 2118. Photographing, recording, or televising proceedings.

3. CONTEMPT.

- 2119. In general.
- 2120. Attorneys.
- 2121. Press.

(W) TELECOMMUNICATIONS AND COMPUTERS.

Sexual expression, see 2252.

- 2125. In general.
- 2126. Broadcasting and electronic media in general.
- Advertising, other than political advertising, see 1643 et seq.*
- 2127. — In general.

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XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.(Cont'd)

- 2128. — Licenses and permits.
- 2129. — Journalists.
- 2130. Radio.
Advertising, other than political advertising, see
§1644 et seq.
- 2131. — In general.
- 2132. — Program content.
- 2133. — Spectrum and frequency.
- 2134. — Journalists.
- 2135. Television.
Advertising, other than political advertising, see
§1643 et seq.
- 2136. — In general.
- 2137. — Program content.
- 2138. — Journalists.
- 2139. Cable and satellite television systems;
community antenna systems.
- 2140. — In general.
- 2141. — Franchises.
- 2142. — Public or local access or program-
ming.
- 2143. Telephones.
- 2144. — In general.
- 2145. — Solicitation; telemarketing; auto-
mated dialing.
- 2146. — Offenses.
- 2147. Computer codes, programs, software,
or services.
Computer games, see §1898. Copyright, see
§1603. Import/export regulations, see §1616.
- 2148. Internet.
- 2149. — In general.
- 2150. — Service providers.
- 2151. — Website content.
- 2152. — Domain names.
- 2153. — Educational institutions.
- 2154. — Libraries.
- 2155. Electronic mail.
- 2156. Antennas.
- 2157. Interception or surveillance; wiretap-
ping.

(X) DEFAMATION.

False statements in general, see XVIII(D).

- 2160. In general.
- 2161. — In general.
- 2162. — Private individuals.
- 2163. — Public figures in general.
- 2164. — Public employees and officials.

XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.(Cont'd)

- 2165. — Opinion.
- 2166. — Negligence.
- 2167. Particular issues and applications.
- 2168. — In general.
- 2169. — Public figures.
- 2170. — Public employees and officials.
- 2171. Discovery in defamation actions.
- 2172. Remedies for defamation.
- 2173. — In general.
- 2174. — Injunctions.
- 2175. — Punitive damages.
- 2176. Criminal liability.

(Y) SEXUAL EXPRESSION.

- 2180. In general.
- 2181. Sexual activity in general.
- 2181.5. Sexual orientation in general.
- 2182. Sodomy in general.
- 2183. Nudity in general.
- 2184. Depictions or portrayals of sex or nudi-
ty in general.
- 2185. Adult speech or use in general.
- 2186. Indecency in general.
- 2187. Public nudity or indecency.
- 2188. Lewdness in general.
- 2189. Obscenity in general.
- 2190. — In general.
- 2191. — Lack of constitutional protection.
- 2192. Pornography in general.
- 2193. Print publications.
- 2194. — In general.
- 2195. — Newsracks or vending machines.
- 2196. Music.
- 2197. — In general.
- 2198. — Concerts and performances.
- 2199. Solicitation of sex.
- 2200. Prostitution.
- 2201. Nude dancing in general.
- 2202. Semi-nude dancing in general.
- 2203. Sexually oriented businesses; adult
businesses or entertainment.
- 2204. — In general.
- 2205. — Performers in general.
- 2206. — Nudity in general.
- 2207. — Nude or semi-nude dancing.
- 2208. — Licenses and permits in general.

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**XVIII. FREEDOM OF SPEECH, EXPRESSION,
AND PRESS.(Cont'd)**

- 2209. — Geographic restrictions in general.
- 2210. — Zoning and land use in general.
- 2211. — Hours of operation.
- 2212. — Content neutrality.
- 2213. — Secondary effects.
- 2214. — Disclosure and recordkeeping requirements.
- 2215. — Availability of other sites.
- 2216. — Physical layout and staging requirements.
- 2217. — Proximity of performers to patrons.
- 2218. — Contact between performers and patrons.
- 2219. Theaters in general.
- 2220. Bookstores.
- 2221. — In general.
- 2222. — Licenses and permits.
- 2223. — Zoning and land use.
- 2224. Motion pictures and videos.
- 2225. — In general.
- 2226. — Obscenity.
- 2227. — Zoning and land use.
- 2228. — Seizure.
- 2229. Video stores.
- 2230. — In general.
- 2231. — Booths.
- 2232. Cabarets, discotheques, dance halls, and nightclubs in general.
- 2233. — In general.
- 2234. — Performers.
- 2235. — Zoning and land use.
- 2236. Intoxicating liquors.
- 2237. — In general.
- 2238. — Lewdness in general.
- 2239. — Nudity in general.
- 2240. — Performers.
 - (1). In general.
 - (2). Nude or semi-nude dancing.
- 2241. — Prohibition against intoxicating liquors in adult establishments.
- 2242. Restaurants and other eating establishments.
- 2243. Advertising, signs, and billboards.
- 2244. Children and minors, protection of.
- 2245. — In general.

**XVIII. FREEDOM OF SPEECH, EXPRESSION,
AND PRESS.(Cont'd)**

- 2246. — Pornography.
- 2247. — Solicitation of minors; importuning.
- 2248. — Sexual performances.
- 2249. — Possession or receipt of materials.
- 2250. — Sale, distribution, dissemination, or reproduction of materials involving children and minors.
- 2251. — Sale, distribution, or dissemination of materials to children and minors.
- 2252. Telecommunications.
- 2253. — In general.
- 2254. — Telephones.
- 2255. — Broadcasting in general.
- 2256. — Radio.
- 2257. — Television.
- 2258. — Cable television; community antenna and satellite systems.
- 2259. — Internet.
- 2260. — Solicitation of children and minors.
- 2261. Video games.
- 2262. Parolees and probationers.
- 2263. Students.
- 2264. Armed services.
- 2265. — In general.
- 2266. — Sexual orientation.

(Z) PRISONS AND PRETRIAL DETENTION.

- 2270. In general.
- 2271. Rational or reasonable basis in general.
- 2272. Sexual expression in general.
- 2273. Grievances in general.
- 2274. Discipline in general.
- 2275. Dress, hair, or grooming.
- 2276. Press conferences or interviews.
- 2277. Abusive or inappropriate language; harassment.
- 2278. Retaliation in general.
- 2279. — In general.
- 2280. — Discipline or disciplinary charges in general.
- 2281. — Segregation or isolation.
- 2282. Possession of or access to documents and reading material in general.
- 2283. Mail in general.
- 2284. — In general.

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XVIII. FREEDOM OF SPEECH, EXPRESSION, AND PRESS.(Cont'd)

- 2285. — Reasonableness of policies.
- 2286. — Opening, reading, or inspection.
- 2287. — Censorship, rejection, or withholding.
- 2288. Incoming mail.
- 2289. — In general.
- 2290. — Opening, reading, or inspection.
- 2291. — Censorship, rejection, or withholding.
- 2292. — Photographs.
- 2293. — Magazines, periodicals, and catalogs.
- 2294. — Newspapers.
- 2295. Outgoing mail.
- 2296. — In general.
- 2297. — Opening, reading, or inspection.
- 2298. — Censorship, rejection, or withholding.
- 2299. Inmate-to-inmate correspondence.
- 2300. Legal mail or papers.
- 2301. — In general.
- 2302. — Opening, reading, or inspection.
- 2303. Telephone or Internet use or access.
- 2304. Motion pictures or videos.

XIX. RIGHTS TO OPEN COURTS, REMEDIES, AND JUSTICE.

Due process, see XXVII; First Amendment, see X.

- 2310. In general.
- 2311. Right of access to the courts and a remedy for injuries in general.
Excludes right to a fair and impartial trial in general, see CRIMINAL LAW and TRIAL.
- 2312. Abrogation, modification, or recognition of remedies.
- 2313. Conditions, limitations, and other restrictions on access and remedies.
- 2314. — In general.
- 2315. — Time for proceedings.
- 2316. — Taxation.
- 2317. — Costs and fees; indigency.
- 2318. Right to obtain justice in general.
- 2319. Right to obtain justice freely.
- 2320. — In general.
- 2321. — Taxation.
- 2322. — Costs and fees; indigency.
- 2323. Right to obtain justice promptly.
Excludes Sixth Amendment right to a speedy trial, see CRIMINAL LAW.

XIX. RIGHTS TO OPEN COURTS, REMEDIES, AND JUSTICE.(Cont'd)

- 2324. Right to appeal and other proceedings for review.
- 2325. Prisoners and pretrial detainees.

XX. SEPARATION OF POWERS.

(A) IN GENERAL.

- 2330. In general.
- 2331. Purposes of separation of powers.
- 2332. Encroachment in general.
- 2333. Delegation in general.

(B) LEGISLATIVE POWERS AND FUNCTIONS.

1. IN GENERAL.

- 2340. Nature and scope in general.
- 2341. Plenary power.
- 2342. Means and methods.

2. ENCROACHMENT ON JUDICIARY.

- 2350. In general.
- 2351. Construction of statutes in general.
- 2352. Adjudication of rights in general.
- 2353. Disposition of property in general.
- 2354. Establishment, organization, and jurisdiction of courts.
- 2355. — In general.
- 2356. — Appellate courts.
- 2357. Remedies and procedure in general.
- 2358. Standing.
- 2359. Discovery.
- 2360. Venue.
- 2361. Limitation of actions.
- 2362. Evidence.
- 2363. Jury.
- 2364. Damages.
- 2365. Injunctions and equitable relief.
- 2366. New trial.
- 2367. Judicial recusal or disqualification.
- 2368. Alternative dispute resolution.
- 2369. Criminal law.
- 2370. — In general.
- 2371. — Sentencing and punishment.
- 2372. Appellate procedure and judicial review.
- 2373. Habeas corpus.
- 2374. Practice of law.
- 2375. Contempt.
- 2376. Taxation.

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XX. SEPARATION OF POWERS.(Cont'd)

- 2377. Costs and fees.
- 2378. — In general.
- 2379. — Filing fees.
- 2380. — Attorney fees.
- 2381. Imposition of legislative preference in particular proceedings.
- 2382. — In general.
- 2383. — Prescribing rule of decision or directing specific result.
- 2384. — Overturning judgment.
- 2385. — Prisoner litigation.

3. ENCROACHMENT ON EXECUTIVE.

- 2390. In general.
- 2391. Appointment, tenure and removal of public employees and officials.
- 2392. Pardon and parole.
- 2393. Veto power.
- 2394. Foreign policy and national defense.

4. DELEGATION OF POWERS.

- 2400. In general.
- 2401. To legislative committees.
- 2402. To Judiciary.
- 2403. — In general.
- 2404. — Sentencing and punishment.
- 2405. To executive, in general.
- 2406. — In general.
- 2407. — Standards for guidance.
- 2408. — Rule making.
- 2409. — Fact finding.
- 2410. To executive, particular issues and applications.
- 2411. — In general.
- 2412. — Agriculture and food.
- 2413. — Armed services.
- 2414. — Business and industry.
 - (1). In general.
 - (2). Financial institutions.
 - (3). Insurance.
 - (4). Securities regulation.
 - (5). Unfair trade practices.
- 2415. — Criminal law.
 - (1). In general.
 - (2). Prosecutors.
 - (3). Controlled substances.
 - (4). Sentencing and punishment.
 - (5). Prisons.

XX. SEPARATION OF POWERS.(Cont'd)

- 2416. — Education.
- 2417. — Elections.
- 2418. — Eminent domain.
- 2419. — Environment and natural resources.
- 2420. — Foreign policy and national defense.
- 2421. — Government bonds.
- 2422. — Health.
 - (1). In general.
 - (2). Medicare, Medicaid, and medical assistance.
 - (3). Mental health.
- 2423. — Immigration and citizenship.
- 2424. — Labor and employment.
 - (1). In general.
 - (2). Collective bargaining.
 - (3). Occupational safety.
 - (4). Wages and hours.
 - (5). Public employment.
- 2425. — Licenses.
 - (1). In general.
 - (2). Motor vehicles and operators.
 - (3). Occupations and professions.
- 2426. — Public utilities.
- 2427. — Public welfare.
 - (1). In general.
 - (2). Foster care.
- 2428. — Tariffs.
- 2429. — Taxation and public finance.
- 2430. — Transportation.
 - (1). In general.
 - (2). Automobiles.
 - (3). Aviation.
 - (4). Carriers.
 - (5). Highways.
- 2431. — Unemployment compensation.
- 2432. — Workers' compensation.
- 2433. To federal government.
- 2434. To state and local authorities.
- 2435. — In general.
- 2436. — States and state employees and officials.
- 2437. — Municipalities and municipal employees and officials.

Delegation by and between branches of municipal government, see MUNICIPAL CORPORATIONS.
- 2438. — Counties and county employees and officials.

Delegation by and between branches of county government, see COUNTIES.

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XX. SEPARATION OF POWERS.(Cont'd)

- 2439. — School boards and school employees and officials.
- 2440. — Park commissioners.
- 2442. To non-governmental entities.
- 2443. To Indian tribes.
- 2444. To foreign governments or international organizations.
- 2445. Local option and submission to popular vote.
- 2446. Conditional and contingent legislation.

(C) JUDICIAL POWERS AND FUNCTIONS.

1. IN GENERAL.

- 2450. Nature and scope in general.
- 2451. Interpretation of constitution in general.
- 2452. Determination of powers of other branches in general.
- 2453. Determination of constitutionality of actions of other branches in general.
- 2454. Determination of constitutionality of statutes.
- 2455. Protection of constitutional rights.
- 2456. Determination of justiciability.
- 2457. Interpretation of statutes.
- 2458. Application of common law.
- 2459. Regulation of practice of law.

2. ENCROACHMENT ON LEGISLATURE.

- 2470. In general.
- 2471. Modification of common law.
- 2472. Making, interpretation, and application of statutes.
Interpretation of statutes when encroachment is not at issue, see STATUTES.
- 2473. — In general.
- 2474. — Judicial rewriting or revision.
- 2475. — Judicial “reading into” or “out of” statutory language.
- 2476. — Judicial disregarding of statutes.
- 2477. Initiatives.
- 2478. Invalidation, annulment, or repeal of statutes.
- 2479. Determination of facts.
- 2480. — In general.
- 2481. — Emergency.
- 2482. — Public interest.
- 2483. Determination of propriety of classification.

XX. SEPARATION OF POWERS.(Cont'd)

- 2484. Police power questions.
- 2485. Inquiry into legislative judgment.
- 2486. — In general.
- 2487. — Motive.
- 2488. — Policy.
- 2489. — Wisdom.
- 2490. — Justice.
- 2491. — Necessity.
- 2492. — Desirability.
- 2493. — Reasonableness.
- 2494. — Expediency.
- 2495. — Equity.
- 2496. — Appropriateness.
- 2497. — Use of best means available.
- 2498. — Political ramifications.
- 2499. Particular issues and applications.
- 2500. — In general.
- 2501. — Armed services.
- 2502. — Business and industry.
 - (1). In general.
 - (2). Financial institutions.
 - (3). Antitrust and trade regulation.
 - (4). Insurance.
 - (5). Securities regulation.
- 2503. — Civil remedies and procedure.
 - (1). In general.
 - (2). Creation of rights of action.
 - (3). Evidence.
 - (4). Time for proceedings.
 - (5). Privileges.
- 2504. — Civil rights.
- 2505. — Contracts.
- 2506. — Corporations.
- 2507. — Criminal law.
 - (1). In general.
 - (2). Controlled substances.
 - (3). Sentencing and punishment.
 - (4). Prisons.
- 2508. — Education.
- 2509. — Elections.
- 2510. — Eminent domain.
- 2511. — Environment and natural resources.
- 2512. — Foreign policy and national defense.
- 2513. — Governmental immunity.
- 2514. — Government property.
- 2515. — Habeas corpus.

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XX. SEPARATION OF POWERS.(Cont'd)

- 2516. — Health.
 - (1). In general.
 - (2). Mental health.
- 2517. — Immigration and citizenship.
- 2518. — Intellectual property.
- 2519. — Indians.
- 2520. — Labor and employment.
 - (1). In general.
 - (2). Collective bargaining.
 - (3). Occupational safety.
 - (4). Wages and hours.
 - (5). Public employment.
- 2521. — Municipalities.
Encroachment of municipal branch of government by other municipal branch, see MUNICIPAL CORPORATIONS.
- 2522. — Property rights.
 - (1). In general.
 - (2). Landlord and tenant.
- 2523. — Public officials.
 - (1). In general.
 - (2). Impeachment.
- 2524. — Public utilities.
- 2525. — Taxation and public finance.
- 2526. — Torts.
- 2527. — Unemployment compensation.
- 2528. — Workers' compensation.
- 2529. — Zoning and land use.
- 2530. Determination as to whether general law is applicable or whether special law can be enacted.
- 2531. Membership, organization, and procedure of legislature.
- 2532. — In general.
- 2533. — Election contests.

3. ENCROACHMENT ON EXECUTIVE.

- 2540. In general.
- 2541. Review of administrative decisions in general.
- 2542. Particular issues and applications.
- 2543. — In general.
- 2544. — Armed services.
- 2545. — Criminal law.
 - (1). In general.
 - (2). Prosecutors.
 - (3). Prisons.
 - (4). Pardon and parole.
- 2546. — Education.

XX. SEPARATION OF POWERS.(Cont'd)

- 2547. — Elections.
- 2548. — Environment and natural resources.
- 2549. — Executive orders.
- 2550. — Executive privilege and immunity.
- 2551. — Foreign policy and national defense.
- 2552. — Health.
- 2553. — Immigration and citizenship.
- 2554. — Indians.
- 2555. — Labor, employment, and public officials.
- 2556. — Licenses.
- 2557. — Public utilities.
- 2558. — Public welfare in general.
- 2559. — Social security.
- 2560. — Taxation and public finance.
- 2561. Powers, duties, and acts under legislative authority.
- 2562. — In general.
- 2563. — Judicial encroachment on executive acts taken under statutory authority.
- 2564. — Judicial exercise of statutory authority as encroaching on executive.

4. DELEGATION OF POWERS BY JUDICIARY.

- 2570. In general.
- 2571. To legislature.
- 2572. To executive in general.
- 2573. To prosecutors.
- 2574. To probation or parole officers.

5. POLITICAL QUESTIONS.

- 2580. In general.
- 2581. Adoption of constitution and amendments.
- 2582. Origination clause.
- 2583. Republican form of government.
- 2584. Elections.
- 2585. — In general.
- 2586. — Apportionment, election, and discipline of members of legislature.
- 2587. Political parties.
- 2588. Foreign policy and national defense.
- 2589. Indians.
- 2590. Public officials.
- 2591. — In general.

92. CONSTITUTIONAL LAW

XX. SEPARATION OF POWERS.(Cont'd)

- 2592. — Impeachment.
- 2593. Taxation and assessments.

6. ADVISORY OPINIONS.

- 2600. In general.
- 2602. Constitutionality of statutes or acts of other branches in general.
- 2603. Particular issues and applications.
- 2604. — In general.
- 2605. — Criminal law.
 - (1). In general.
 - (2). Sentencing and punishment.
- 2606. — Elections.
- 2607. — Environment and natural resources.
- 2608. — Labor and employment.
- 2609. — Taxation and public finance.

(D) EXECUTIVE POWERS AND FUNCTIONS.

- 2620. Nature and scope in general.
- 2621. Encroachment on legislature.
- 2622. Encroachment on judiciary.
- 2623. — In general.
- 2624. — Executive encroachment on judicial acts taken under statutory authority.
- 2625. — Executive exercise of statutory authority as encroaching on judiciary.
 - (1). In general.
 - (2). Prosecutors.
- 2626. Delegation of powers by executive.

XXI. VESTED RIGHTS.

Ex post facto, see XXIII; Due process, see XVII.

- 2630. Constitutional guarantees in general.
- 2631. Property in general.
- 2632. — In general.
- 2633. — Curative acts validating transfers.
- 2634. Descent and distribution.
- 2635. Dower and curtesy.
- 2636. Community property.
- 2637. Improvement and betterment laws.
- 2638. Redemption laws.
- 2639. Exemption and homestead laws.
- 2640. Taxation.
- 2641. Licenses, permits, franchises, and other privileges.
- 2642. Zoning and land use.

XXI. VESTED RIGHTS.(Cont'd)

- 2643. Public employees and officials.
- 2644. — In general.
- 2645. — Compensation and benefits.
- 2646. Public funds and assistance.
- 2647. Penalties, forfeitures, fines, and punishment.
- 2648. Rights of action and defenses.
- 2649. Legal remedies; procedure in general.
- 2650. Time for proceedings.
- 2651. Pleading.
- 2652. Evidence.
- 2653. Verdicts and judgments.
- 2654. Appeal or other proceedings for review.
- 2655. Costs and fees.

XXII. OBLIGATION OF CONTRACT.

(A) IN GENERAL.

- 2660. In general.
- 2661. Application in general.
- 2662. Literal application.
- 2663. Application to state and local laws and regulations.
- 2664. Application to federal laws and regulations.
- 2665. What law governs.
- 2666. What is a "law".
- 2667. Retroactivity in general.
- 2668. What is a "contractual obligation"; existing law.
- 2669. Existence and validity of contract.
- 2670. Future contracts.
- 2671. Existence and extent of impairment.
- 2672. Police power; purpose of regulation.
- 2673. Judicial decisions.
- 2674. Eminent domain.
- 2675. Taxation.

(B) CONTRACTS WITH GOVERNMENTAL ENTITIES.

1. IN GENERAL.

- 2680. In general.
- 2681. Statutory creation of contractual rights.
- 2682. Literal application.
- 2683. What law governs.
- 2684. What is a "law".
- 2685. Existence and validity of contract.
- 2686. Future contracts.
- 2687. Existence and extent of impairment.

92. CONSTITUTIONAL LAW

XXII. OBLIGATION OF CONTRACT.(Cont'd)

- 2688. Police power; purpose of regulation.
- 2689. Contracts with states in general.
- 2690. Contracts with counties in general.
- 2691. Contracts with municipal corporations in general.
- 2692. Contracts with school boards and school districts in general.

2. PARTICULAR ISSUES AND APPLICATIONS.

- 2695. In general.
- 2696. Contracts with states in general.
- 2697. Contracts with counties in general.
- 2698. Contracts with municipal corporations in general.
- 2699. Contracts with school boards and school districts in general.
- 2700. Licenses.
- 2701. Leases.
- 2702. Securities issued by governmental entities.
- 2703. — In general.
- 2704. — Bonds.
- 2705. Grants and sales in general.
- 2706. Charter rights in general.
- 2707. Charters of municipal corporations.
- 2708. Monopolies and franchises.
- 2709. Corporate rights and privileges.
- 2710. — In general.
- 2711. — Charters.
- 2712. Insurance.
- 2713. Gambling and gaming.
- 2714. Railroads.
- 2715. Right to use streets and highways.
- 2716. Right to charges and tolls.
- 2717. Taxation.
- 2718. — In general.
- 2719. — Exemptions.
- 2720. — Tax sales.
- 2721. Public employees and officials.
- 2722. — In general.
- 2723. — Compensation.
- 2724. — Tenure or term of employment.
- 2725. — Pensions and retirement plans.
 - (1). In general.
 - (2). Existence of contractual rights.
 - (3). Existence and extent of impairment in general.
 - (4). Eligibility; retirement age.

XXII. OBLIGATION OF CONTRACT.(Cont'd)

- (5). Contributions and funding.
- (6). Amount of benefits and termination thereof.
- 2726. Contracts with United States.

(C) CONTRACTS WITH NON-GOVERNMENTAL ENTITIES.

1. IN GENERAL.

- 2730. In general.
- 2731. Literal application.
- 2732. What law governs.
- 2734. Existence and validity of contract.
- 2735. Future contracts.
- 2736. Existence and extent of impairment.
- 2737. Police power; purpose of regulation.
- 2738. Imposition of condition on performance.
- 2739. Invalidation of contract.
- 2740. Change, suspension, or withdrawal of remedies in general.

2. PARTICULAR ISSUES AND APPLICATIONS.

- 2745. In general.
- 2746. Contracts for services.
- 2747. — In general.
- 2748. — Public utilities.
- 2749. — Legal services.
- 2750. Labor and employment.
- 2751. — In general.
- 2752. — Workers' compensation.
- 2753. Sales in general.
- 2754. Real property in general.
- 2755. Leases in general.
- 2756. Mineral interests.
- 2757. Business relationships in general.
- 2758. Insurance.
- 2759. Marriage and divorce.
- 2760. Liens and mortgages.
- 2761. Preference and rights of creditors.
- 2762. Insolvency laws.
- 2763. Penalties or forfeitures.
- 2764. Actions.
 - 2765. — In general.
 - 2766. — Limitation of actions.
 - 2767. — Preliminary proceedings.
 - 2768. — Evidence.
 - 2769. — Trial, judgment, and review.
 - 2770. — Costs and fees.

92. CONSTITUTIONAL LAW

XXII. OBLIGATION OF CONTRACT.(Cont'd)

- 2771. Enforcement of judgment or debt.
- 2772. — In general.
- 2773. — Stay of execution.
- 2774. — Exemptions from legal process.
- 2775. — Execution sales; redemption.

XXIII. EX POST FACTO PROHIBITIONS.

Definition, application, and validity of retroactive or retrospective statutes not described as ex post facto, see STATUTES IX. Laws impairing obligation of contracts, see CONSTITUTIONAL LAW XXII. Bills of attainder, see CONSTITUTIONAL LAW §1095. Due process challenges to retroactive laws, see CONSTITUTIONAL LAW §3907, 4508.

(A) CONSTITUTIONAL PROHIBITIONS IN GENERAL.

- 2781. In general.
- 2782. Relationship between federal and state provisions.
- 2783. Power to enact.
- 2784. Purpose.
- 2785. Relationship to retroactive laws.
- 2786. Entities subject to provisions.
- 2787. — In general.
- 2788. — Governmental entities.
 - (1). In general.
 - (2). Executive branch.
 - (3). Legislative branch.
 - (4). Judicial branch.
- 2789. Penal laws in general.
- 2790. Punishment in general.
- 2791. Substantive rights in general.
- 2792. Vested rights in general.
- 2793. Remedies and procedure in general.

(B) PARTICULAR ISSUES AND APPLICATIONS.

- 2800. In general.
- 2801. Particular offenses.
- 2802. — In general.
- 2803. — Grade or degree of offense.
- 2804. — Traffic offenses.
- 2805. — Homicide.
- 2806. — Controlled substances.
- 2807. — Assault and battery.
- 2808. — Sex offenses.
- 2809. Criminal proceedings.
- 2810. — In general.
- 2811. — Statutes of limitations.
- 2812. — Evidence.
- 2813. — Mental competency.

XXIII. EX POST FACTO PROHIBITIONS.(Cont'd)

- 2814. Sentencing and imprisonment.
- 2815. — In general.
- 2816. — Length of sentence.
- 2817. — Sentencing guidelines.
- 2818. — Probation.
- 2819. Sex offenders.
- 2820. — In general.
- 2821. — Registration.
- 2822. — Involuntary commitment.
- 2823. Parole.
- 2824. Civil actions and proceedings.
- 2825. — In general.
- 2826. — Statutes of limitations.
- 2827. Juries.
- 2828. Administrative agencies and proceedings in general.
- 2829. Mental health.
- 2830. — In general.
- 2831. — Institutions.
- 2832. Family law.
- 2833. — In general.
- 2834. — Divorce.
- 2835. — Child support.
- 2836. — Termination of parental rights.
- 2837. Juvenile justice.
- 2838. Aliens and immigration.
- 2839. Taxation.
- 2840. Labor and employment.
- 2841. — In general.
- 2842. — Public employees and officials.
- 2843. Licenses in general.
- 2844. Trade, business, and regulated industries.
- 2845. Government benefits.

XXIV. PRIVILEGES OR IMMUNITIES; EMOLUMENTS.

(A) IN GENERAL; STATE CONSTITUTIONAL PROVISIONS.

1. IN GENERAL.

- 2860. In general.
- 2861. Relationship to federal provisions.
- 2862. Entities subject to, or protected by, constitutional provisions.
- 2863. — In general.
- 2864. — Governmental entities.

92. CONSTITUTIONAL LAW

XXIV. PRIVILEGES OR IMMUNITIES; EMOLUMENTS.(Cont'd)

- 2865. Deference to legislative or other governmental entity.
- 2866. Rational or reasonable basis.
- 2867. Uniform applicability or operation; equal availability.
- 2868. Arbitrariness.

2. PARTICULAR ISSUES AND APPLICATIONS.

- 2870. In general.
- 2871. Local government.
- 2872. Criminal law.
- 2873. — In general.
- 2874. — Offenses.
- 2875. — Proceedings.
- 2876. — Sentencing, punishment, and prisons.
- 2877. Labor and employment.
- 2878. Public officials.
- 2879. Public employment.
- 2880. — In general.
- 2881. — Civil service.
- 2882. Education.
- 2883. Workers' compensation.
- 2884. Trade, business, profession, or occupation, regulation of.
- 2885. Licenses in general.
- 2886. Peddlers and salespersons.
- 2887. Intoxicating liquors.
- 2888. Public utilities.
- 2889. Sunday laws.
- 2890. Fish and game.
- 2891. Taxation.
- 2892. — In general.
- 2893. — Exemptions.
- 2894. Torts.
- 2895. Contracts.
- 2896. — In general.
- 2897. — Public contracts.
- 2898. Property.
- 2899. Financial transactions.
- 2900. Elections.
- 2901. Civil proceedings.
- 2902. — In general.
- 2903. — Limitation of actions.
- 2904. — Costs and fees.
- 2905. Family law.

XXIV. PRIVILEGES OR IMMUNITIES; EMOLUMENTS.(Cont'd)

- 2906. — In general.
- 2907. — Marriage.

(B) PRIVILEGES AND IMMUNITIES OF CITIZENS OF THE UNITED STATES (FOURTEENTH AMENDMENT).

1. IN GENERAL.

- 2910. In general.
- 2911. Entities protected by, or subject to, constitutional provision.
- 2912. — In general.
- 2913. — Corporations or other business entities.
- 2914. Source or nature of protected rights.
- 2915. Reasonableness.
- 2916. Police powers; public purpose or welfare.

2. PARTICULAR ISSUES AND APPLICATIONS.

- 2920. In general.
- 2921. Criminal law.
- 2922. — In general.
- 2923. — Offenses.
- 2924. — Proceedings.
- 2925. Taxation.
- 2926. Trade, business, profession, or occupation, regulation of.
- 2927. Attorneys.
- 2928. Intoxicating liquors.
- 2929. Fish and game.
- 2930. Labor and employment.
- 2931. Public employees and officials.
- 2932. Race or national origin discrimination.

(C) PRIVILEGES AND IMMUNITIES OF CITIZENS OF THE SEVERAL STATES (ARTICLE IV).

1. IN GENERAL.

- 2935. In general.
- 2936. Purpose or object of constitutional provision.
- 2937. Entities protected by constitutional provision.
- 2938. — In general.
- 2939. — Corporations or other business entities.
- 2940. — Governmental entities.
- 2941. Rights or privileges protected.
- 2942. — In general.

92. CONSTITUTIONAL LAW

XXIV. PRIVILEGES OR IMMUNITIES; EMOLUMENTS.(Cont'd)

- 2943. — Fundamental rights.
- 2944. Discrimination in general.
- 2945. Justification for discrimination or inequality.

2. PARTICULAR ISSUES AND APPLICATIONS.

- 2950. In general.
- 2951. Criminal law.
- 2952. Taxation.
- 2953. Trade, business, profession, or occupation, regulation of.
- 2954. Attorneys.
- 2955. — In general.
- 2956. — Bar admission or examination.
- 2957. Peddlers and salespersons.
- 2958. Insurance.
- 2959. Fish and game.
- 2960. Civil proceedings.
- 2961. — In general.
- 2962. — Jurisdiction.
- 2963. — Process.

XXV. CLASS LEGISLATION; DIS- CRIMINATION AND CLASSI- FICATION IN GENERAL.

Equal protection, see XXVI; privileges or immunities, see XXIV; special legislation, see STATUTES.

- 2970. In general.
- 2971. Rights of action and remedies in general.
- 2972. Race, national origin, or ethnicity.
- 2973. Aliens.
- 2974. Sex or gender; sexual orientation.
- 2975. Age.
- 2976. Unit of government, residence, and geographic location in general.
- 2977. Public improvements.
- 2978. Public assistance and benefits.
Workers' and unemployment compensation, see
2981.
- 2979. Trade, business, and professions in general.
- 2980. Corporations, associations, and organizations in general.
- 2981. Labor and employment in general.
- 2982. Public employees and officials.
- 2983. Sales of goods.
- 2984. Factors.
- 2985. Transportation.

XXV. CLASS LEGISLATION; DISCRIMI- NATION AND CLASSIFICATION IN GENERAL.(Cont'd)

- 2986. Insurance.
- 2987. Usury laws.
- 2988. Sunday laws.
- 2989. Nuisances.
- 2990. Intellectual property.
- 2991. Criminal law.

XXVI. EQUAL PROTECTION.

(A) IN GENERAL.

1. IN GENERAL.

- 3000. In general.

2. RELATIONSHIP TO SIMILAR PROVISIONS.

- 3005. In general.
- 3006. Federal/state cognates.

3. PERSONS OR ENTITIES PROTECTED.

- 3010. In general.
- 3011. Governmental entities.
- 3012. Corporations and other business entities.
- 3013. Aliens and alien business entities.
- 3014. Prisoners and felons.
- 3015. Children and the unborn.

4. APPLICABILITY TO GOVERNMENTAL OR PRIVATE ACTION; STATE ACTION.

- 3020. In general.
- 3021. Branches of state government involved.
- 3022. Local governments.
- 3023. School boards.
- 3024. Federal government.
- 3025. District of Columbia.
- 3026. Territories.
- 3027. Private persons and entities.

5. SCOPE OF DOCTRINE IN GENERAL.

- 3030. In general.
- 3031. Limits of doctrine.
- 3032. — In general.
- 3033. — Creation of substantive rights.
- 3034. — Equality of results.
- 3035. — Perfect, exact, or complete equality or uniformity.
- 3036. — Gradual, incremental, or non-comprehensive approach.

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XXVI. EQUAL PROTECTION.(Cont'd)

- 3037. — Territorial uniformity; application to places, areas, or regions.
- 3038. Discrimination and classification.
- 3039. — In general.
- 3040. — Intentional or purposeful action requirement.
- 3041. — Similarly situated persons; like circumstances.
- 3042. — “Class of one” claims.
- 3043. — Statutes and other written regulations and rules.
- 3044. — Police power; public safety and welfare.
- 3045. Enforcement, application, or administration in general.
- 3046. Judicial rulings.
- 3047. Affirmative action in general.

6. LEVELS OF SCRUTINY.

- 3050. In general.
- 3051. Differing levels set forth or compared.
- 3052. Rational basis standard; reasonableness.
- 3053. — In general.
- 3054. — Arbitrary, capricious, or unreasonable action in general.
- 3055. — Similarly situated persons; like circumstances.
- 3056. — “Class of one” claims.
- 3057. — Statutes and other written regulations and rules.
- 3058. — Police power; public safety and welfare.
- 3059. Heightened levels of scrutiny.
- 3060. — In general.
- 3061. — Intermediate scrutiny in general.
- 3062. — Strict scrutiny and compelling interest in general.
- 3063. Particular rights.
- 3064. — In general.
- 3065. — Economic or social regulation in general.
- 3066. — Education.
- 3067. — Privacy, travel, speech, and association.
- 3068. — Voting and political rights.
- 3069. Particular classes.
- 3070. — In general.
- 3071. — Age.

XXVI. EQUAL PROTECTION.(Cont'd)

- 3072. — Alien status.
- 3073. — Disability and disease, physical or mental.
 - (1). In general.
 - (2). Sex offenders.
- 3074. — Illegitimacy.
- 3075. — Marital status.
- 3076. — Poverty or wealth; indigents and the homeless.
- 3077. — Prisoners, and those charged with or convicted of crimes.
- 3078. — Race, national origin, or ethnicity.
- 3079. — Religion.
- 3080. — Residency.
- 3081. — Sex or gender.
- 3082. — Sexual orientation.

(B) PARTICULAR CLASSES.

1. AGE.

- 3085. In general.
- 3086. Civil and personal rights in general.
- 3087. — In general.
- 3088. — Age-based curfews.
- 3089. Property in general.
- 3090. — In general.
- 3091. — Restrictions relating to children and minors.
- 3092. Government property, facilities, and funds.
- 3093. Social security, welfare, and other public payments.
- 3094. Labor, employment, and public officials.
- 3095. — In general.
- 3096. — Hiring.
- 3097. — Compensation and benefits.
- 3098. — Retirement issues.
 - (1). In general.
 - (2). Police and fire personnel.
 - (3). Judges.
- 3099. Education.
- 3100. Elections, voting, and political rights.
- 3101. War and national security.
- 3102. Motor vehicles.
- 3103. Families and children.
- 3104. Juvenile justice.

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XXVI. EQUAL PROTECTION.(Cont'd)

3105. Other particular issues and applications.

3106. Criminal law.

2. ALIENS.

3110. In general.

3111. Immigration and naturalization.

3112. — In general.

3113. — Discrimination between classes of aliens.

(1). In general.

(2). Country or place of origin.

3114. Property in general.

3115. Social security, welfare, and other public payments.

3116. Taxation.

3117. Labor, employment, and public officials.

3118. — In general.

3119. — Public employees and officials.

3120. — Workers' compensation and employers' liability.

3121. Education.

3122. — In general.

3123. — Students.

3124. — Employees.

3125. Elections, voting, and political rights.

3126. Motor vehicles.

3127. Tort or financial liabilities.

3128. Other particular issues and applications.

3129. Criminal law.

3130. — In general.

3131. — Offenses.

3132. — Prosecution.

3133. — Sentencing and punishment.

(1). In general.

(2). Prisons and other confinement.

3. DISABILITY OR DISEASE, PHYSICAL OR MENTAL.

3140. In general.

3141. Civil and personal rights in general.

3142. — In general.

3143. — Commitment, confinement, or placement in general.

3144. Property in general.

3145. — In general.

3146. — Access issues.

XXVI. EQUAL PROTECTION.(Cont'd)

3147. — Zoning and land use.

3148. Government property, facilities, and funds.

3149. — In general.

3150. — Access issues.

3151. Social security, welfare, and other public payments.

3152. Taxation.

3153. Labor, employment, and public officials.

3154. — In general.

3155. — Public employees and officials.

3156. — Workers' compensation.

3157. Education.

3158. — In general.

3159. — Students.

3160. — Employees.

3161. — Funding and financial issues.

3162. Elections, voting, and political rights.

3163. War and national security.

3164. Motor vehicles.

3165. Families and children.

3166. Tort or financial liabilities.

3167. Other particular issues and applications.

3168. Criminal law.

3169. — In general.

3170. — Disposition pending trial.

3171. — Determination of competency to stand trial.

3172. — Disposition after verdict or other determination; prisons.

3173. Sex offenders.

3174. — In general.

3175. — Commitment.

3176. — Registration and notice.

4. ILLEGITIMACY.

3180. In general.

3181. Property in general.

3182. — In general.

3183. — Insurance.

3184. — Inheritance.

3185. Social security, welfare, and other public payments.

3186. Labor, employment, and public officials.

3187. — In general.

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XXVI. EQUAL PROTECTION.(Cont'd)

- 3188. — Compensation, pensions, and benefits.
- 3189. Education.
- 3190. Families and children.
- 3191. — In general.
- 3192. — Paternity determinations and proceedings.
- 3193. — Custody and visitation.
- 3194. — Support.
- 3195. Other particular issues and applications.

5. MARITAL STATUS.

- 3200. In general.
- 3201. Property in general.
- 3202. Taxation.
- 3203. Labor, employment, and public officials.
- 3204. Education.
- 3205. Families and children.
- 3206. Other particular issues and applications:

6. POVERTY OR WEALTH; THE HOMELESS.

- 3210. In general.
- 3211. Civil and personal rights in general.
- 3212. Property in general.
- 3213. — In general.
- 3214. — Zoning and land use.
- 3215. Government property, facilities, and funds.
- 3216. — In general.
- 3217. — Housing.
- 3218. — Transportation.
- 3219. Labor, employment, and public officials.
- 3220. Education.
- 3221. — In general.
- 3222. — Funding and financing.
- 3223. Elections, voting, and political rights.
- 3224. Motor vehicles.
- 3225. Families and children.
- 3226. Other particular issues and applications.
- 3227. Criminal law.
- 3228. Court and administrative costs or fees; assistance of counsel.

7. STATUS AS PRISONER OR ONE CHARGED WITH OR CONVICTED OF CRIME.

- 3230. In general.
- 3231. Civil and personal rights in general.
- 3232. — In general.
- 3233. — Right to travel.
- 3234. — Right to possess and use firearms.
- 3235. Property in general.
- 3236. Social security, welfare, and other public payments.
- 3237. Labor, employment, and public officials.
- 3238. Education.
- 3239. Elections, voting, and political rights.
- 3240. Motor vehicles.
- 3241. Families and children.
- 3242. Other particular issues and applications.
- 3243. Criminal law.
- 3244. DNA testing and databases.

8. RACE, NATIONAL ORIGIN, OR ETHNICITY.

- 3250. In general.
- 3251. Intentional or purposeful action.
- 3252. Affirmative action in general.
- 3253. Civil or administrative proceedings in general.
- 3254. Governments and political subdivisions in general.
- 3255. — In general.
- 3256. — Public improvements and urban renewal.
- 3257. Property in general.
- 3258. — In general.
- 3259. — Covenants and restrictions.
- 3260. — Privately operated facilities.
 - (1). In general.
 - (2). Hotels and other lodging.
 - (3). Restaurants and other providers of food and drink.
 - (4). Recreation and entertainment facilities.
- 3261. — Zoning and land use.
- 3262. Government property, facilities, and funds.
- 3263. — In general.
- 3264. — Publicly supported housing.
- 3265. — Streets and highways.
- 3266. — Transportation.

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XXVI. EQUAL PROTECTION.(Cont'd)

- 3267. — Recreation and entertainment facilities.
- 3268. Social security, welfare, and other public payments.
- 3269. Taxation.
- 3270. Labor, employment, and public officials.
- 3271. — In general.
- 3272. — Public employees and officials.
- 3273. — Judges, regulation and discipline.
- 3274. — Workers' compensation and employers' liability.
- 3275. Education.
- 3276. — In general.
- 3277. — Private elementary and secondary education.
- 3278. — Public elementary and secondary education.
 - (1). In general.
 - (2). Desegregation and integration in general.
 - (3). School location.
 - (4). Assignment and transfer of students.
 - (5). Busing.
 - (6). Employees.
 - (7). Elections in general.
 - (8). Redistricting and reapportionment.
 - (9). Contracts.
- 3279. — Interscholastic organizations.
- 3280. — Post-secondary institutions.
 - (1). In general.
 - (2). Desegregation and integration in general.
 - (3). Admissions.
 - (4). Loans, scholarships, and grants.
 - (5). Employees.
- 3281. — Athletics.
- 3282. — Trade schools and other miscellaneous educational programs.
- 3283. Elections, voting, and political rights.
- 3284. — In general.
- 3285. — Electoral districts and gerrymandering.
- 3286. War and national security.
- 3287. Contracts.
- 3288. — In general.
- 3289. — Public contracts.

XXVI. EQUAL PROTECTION.(Cont'd)

- 3290. Trade or business.
- 3291. Motor vehicles.
- 3292. Families and children.
- 3293. Tort or financial liabilities.
- 3294. Juvenile justice.
- 3295. Other particular issues and applications.
- 3296. Criminal law.
- 3297. — In general.
- 3298. — Selective prosecution in general.
- 3299. — Investigation, arrest, and search.
- 3300. — Proceedings.
- 3301. — Sentencing and punishment.
- 3302. — Prisons.
- 3303. — Probation.
- 3304. — Parole.
- 3305. Juries.
- 3306. — In general.
- 3307. — Proportional representation, underrepresentation, or token inclusion.
- 3308. — Method of selection.
 - (1). In general.
 - (2). Jury lists.
- 3309. — Peremptory challenges.
- 3310. — Grand juries.

9. RELIGION.

- 3315. In general.
- 3316. Property in general.
- 3317. — In general.
- 3318. — Zoning and land use.
- 3319. Government property, facilities, and funds.
- 3320. Social security, welfare, and other public payments.
- 3321. Taxation.
- 3322. Labor, employment, and public officials.
- 3323. — In general.
- 3324. — Public employees and officials.
- 3325. Education.
- 3326. — In general.
- 3327. — Access issues.
- 3328. — Students.
- 3329. — Employees.
- 3330. Elections, voting, and political rights.
- 3331. War and national security.
- 3332. Trade or business.

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XXVI. EQUAL PROTECTION.(Cont'd)

- 3333. — In general.
- 3334. — Business closure; Sunday laws.
- 3335. Families and children.
- 3336. Other particular issues and applications.
- 3337. Criminal law.
- 3338. — In general.
- 3339. — Controlled substances.
- 3340. — Proceedings.
- 3341. — Sentencing and punishment.
 - (1). In general.
 - (2). Prisons and other confinement.
- 3342. Juries.

10. RESIDENCY OR DURATION THEREOF.

- 3350. In general.
- 3351. Governments and political subdivisions; annexation.
- 3352. Property in general.
- 3353. Government property, facilities, and funds.
- 3354. Social security, welfare, and other public payments.
- 3355. Taxation.
- 3356. Labor, employment, and public officials.
- 3357. — In general.
- 3358. — Public employees and officials.
 - (1). In general.
 - (2). Police and firefighters.
- 3359. Education.
- 3360. — In general.
- 3361. — Students in general.
- 3362. — Tuition and fees.
- 3363. — Employees.
- 3364. Elections, voting, and political rights.
- 3365. — In general.
- 3366. — Qualification of candidates.
- 3367. — Qualification of voters.
- 3368. Contracts, private and public.
- 3369. Trade or business.
- 3370. — In general.
- 3371. — Licenses and regulation in general.
- 3372. — Attorneys.
- 3373. Animals and plants; fish and game.
- 3374. Motor vehicles.
- 3375. Families and children.

XXVI. EQUAL PROTECTION.(Cont'd)

- 3376. Other particular issues and applications.
- 3377. Criminal law.
- 3378. Juries.

11. SEX OR GENDER.

- 3380. In general.
- 3381. Affirmative action in general.
- 3382. Harassment in general.
- 3383. Civil or administrative proceedings in general.
- 3384. Property in general.
- 3385. Government property, facilities, and funds.
- 3386. Social security, welfare, and other public payments.
- 3387. Taxation.
- 3388. Labor, employment, and public officials.
- 3389. — In general.
- 3390. — Public employees and officials in general.
- 3391. — Harassment.
- 3392. — Workers' compensation.
- 3393. Education.
- 3394. — In general.
- 3395. — Elementary and secondary education.
- 3396. — Post-secondary institutions.
- 3397. — Single-sex institutions.
- 3398. — Athletics.
- 3399. War and national security.
- 3400. Contracts.
- 3401. — In general.
- 3402. — Public contracts.
- 3403. Trade or business.
- 3404. — In general.
- 3405. — Licenses in general.
- 3406. — Attorneys and judges.
- 3407. Motor vehicles.
- 3408. Families and children.
- 3409. — In general.
- 3410. — Divorce and alimony.
- 3411. — Custody and visitation.
- 3412. — Child support.
- 3413. Tort or financial liabilities.
- 3414. Juvenile justice.

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- 3415. Other particular issues and applications.
- 3416. Criminal law.
- 3417. — In general.
- 3418. — Investigation, arrest, or search; selective prosecution.
- 3419. — Prosecution, sentence, and punishment.
- 3420. — Prisons and parole.
- 3421. Pregnancy-related discrimination and issues.
- 3422. — In general.
- 3423. — Criminal law.
- 3424. — Labor and employment; occupations.
- 3425. — Abortion and birth control.
- 3426. Juries.
- 3427. — In general.
- 3428. — Peremptory challenges.
- 3429. — Grand juries.

12. SEXUAL ORIENTATION.

- 3430. In general.
- 3431. Social security, welfare, and other public payments.
- 3432. Labor, employment, and public officials.
- 3433. Education.
- 3434. War and national security.
- 3435. Environment and health.
- 3436. Families and children.
- 3437. — In general.
- 3438. — Marriage and civil unions.
- 3439. — Adoption.
- 3440. — Custody.
- 3441. Other particular issues and applications.
- 3442. Criminal law.
- 3443. — In general.
- 3444. — Offenses and defenses.
- 3445. — Prisons and other confinement.
- 3446. Juries.

(C) CIVIL ACTIONS AND PROCEEDINGS.

- 3450. In general.
- 3451. Choice of law.
- 3452. Jurisdiction.
- 3453. Venue.

XXVI. EQUAL PROTECTION.(Cont'd)

- 3454. Limitation of actions.
- 3455. Parties.
- 3456. Process or notice.
- 3457. Pleading.
- 3458. Discovery.
- 3459. Provisional remedies.
- 3460. Pretrial proceedings.
- 3461. Trial.
- 3462. — In general.
- 3463. — Evidence.
- 3464. — Witnesses.
- 3465. Judgment and execution.
- 3466. Appeal or other proceedings for review.
- 3467. Costs and fees.

(D) ADMINISTRATIVE AGENCIES AND PROCEEDINGS IN GENERAL.

- 3470. In general.
- 3471. Rules and regulations.
- 3472. Hearings and adjudications.
- 3473. Judicial review.

(E) PARTICULAR ISSUES AND APPLICATIONS.

1. IN GENERAL.

- 3475. In general.
- 3476. Freedom of speech and press.
- 3477. Right to travel.
- 3478. Right to possess and use firearms.
Gun dealers and shows, see §3690.

2. GOVERNMENTS AND POLITICAL SUBDIVISIONS IN GENERAL.

- 3480. In general.
- 3481. Population-based distinctions.
- 3482. Incorporation, organization, and dissolution.
- 3483. Territorial extent and annexation.
- 3484. Public improvements and urban renewal.
- 3485. — In general.
- 3486. — Voter approval and bonds.
- 3487. — Assessments and special taxes.
- 3488. Other particular issues and applications.

3. PROPERTY IN GENERAL.

- 3495. In general.
- 3496. Real property in general.
- 3497. Housing in general.

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XXVI. EQUAL PROTECTION.(Cont'd)

- 3498. Building and safety codes.
- 3499. Eminent domain.
- 3500. — In general.
- 3501. — Proceedings.
- 3502. — Compensation, damages, and relocation assistance.
- 3503. Forfeitures and proceedings therefor.
- 3504. Landlord and tenant issues.
- 3505. — In general.
- 3506. — Rent control.
- 3507. Mineral, oil, and gas rights.
- 3508. Nuisances and nuisance abatement.
- 3509. Waters and wetlands.
Public water supply, see ¶3532.
- 3510. Will, probate, inheritance, and dower issues.
- 3511. Zoning and land use.
- 3512. — In general.
- 3512.5. — Selective enforcement.
- 3513. — Signs and billboards.
- 3514. — Adult uses.
- 3515. — Proceedings.
- 3517. Other particular issues and applications.

4. GOVERNMENT PROPERTY, FACILITIES, AND FUNDS.

- 3520. In general.
- 3521. Control and use in general.
Free speech issues, see ¶3476.
- 3522. Sale or lease in general.
- 3523. Public housing.
- 3524. Transportation.
- 3525. — In general.
- 3526. — Roads, streets, highways, and sidewalks.
 - (1). In general.
 - (2). Construction and maintenance.
 - (3). Billboards and signs.
 - (4). Parking.
 - (5). Non-transportation use; parades and demonstrations.
- 3527. — Bridges.
- 3528. — Airports.
- 3529. Public funds; grants and loans.
- 3530. Public services.
- 3531. — In general.
- 3532. — Sewer, water, and drains.
- 3533. — Garbage collection.

XXVI. EQUAL PROTECTION.(Cont'd)

- 3534. Other particular issues and applications.

5. SOCIAL SECURITY, WELFARE, AND OTHER PUBLIC PAYMENTS.

- 3540. In general.
- 3541. Aid to children and families.
- 3542. Food stamps and programs.
- 3543. Social security.
- 3544. — In general.
- 3545. — Old age and survivor benefits.
- 3546. — Supplemental security income in general.
- 3547. — Disability benefits.
- 3548. Medical assistance.
- 3549. — In general.
- 3550. — Medicaid.
- 3551. — Medicare.
- 3552. — Abortion funding.
- 3553. Unemployment compensation.
- 3554. Other particular issues and applications.

6. TAXATION.

- 3560. In general.
- 3561. Property taxes.
- 3562. — In general.
- 3563. — Exemptions.
- 3564. — Assessment and collection.
- 3565. Transfer taxes.
- 3566. Franchise taxes.
- 3567. Excise taxes.
- 3568. Premium taxes.
- 3569. Gift taxes.
- 3570. Estate and inheritance taxes.
- 3571. Income taxes.
- 3572. — In general.
- 3573. — Exemptions.
- 3574. — Assessment and collection.
- 3575. Employment taxes.
- 3576. Sales and use taxes.
- 3577. Gross receipts taxes.
- 3578. Hotel and motel taxes.
- 3579. Severance taxes.
- 3580. Other particular issues and applications.

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7. LABOR, EMPLOYMENT, AND PUBLIC OFFICIALS.

- 3585. In general.
- 3586. Right to choose and pursue profession or employment in general.
- 3587. Employment in general.
- 3588. — In general.
- 3589. — Hiring and advancement.
- 3590. — Removal, non-renewal, and discipline.
- 3591. — Compensation, pensions, and benefits.
- 3592. Public employees and officials.
- 3593. — In general.
- 3594. — Hiring and advancement.
- 3595. — Removal, recall, and discipline.
- 3596. — Compensation, pensions, and benefits.
- 3597. — Restrictions on political activity.
- 3598. Labor organizations and collective bargaining.
- 3599. — In general.
- 3600. — Dues and check-offs.
- 3601. Workplace safety regulation.
- 3602. Wage and hour regulation.
- 3603. Workers' compensation and employers' liability.
- 3604. Other particular issues and applications.

8. EDUCATION.

- 3610. In general.
- 3611. Elementary and secondary education.
- 3612. — In general.
- 3613. — School boards in general.
 - (1). In general.
 - (2). Election, tenure, and removal.
- 3614. — School funding and financing; taxation.
- 3615. — Establishment and closing of schools.
- 3616. — Control, use, and disposition of property; access issues.
- 3617. — Students.
 - (1). In general.
 - (2). Discipline in general.
 - (3). Dress and grooming issues.
 - (4). Dismissal, suspension, or expulsion.
- 3618. — Employees.
 - (1). In general.

XXVI. EQUAL PROTECTION.(Cont'd)

- (2). Licensure and certification.
 - (3). Hiring and tenure.
 - (4). Compensation and benefits.
 - (5). Discharge or non-renewal.
- 3619. — Athletics.
- 3620. — Home schooling.
- 3621. Post-secondary institutions.
- 3622. — In general.
- 3623. — Governing boards.
- 3624. — Funding and financing issues.
- 3625. — Control, use, and disposition of property; access issues.
- 3626. — Students.
 - (1). In general.
 - (2). Tuition and fees.
 - (3). Scholarships, grants, and loans.
 - (4). Discipline in general.
 - (5). Dismissal, suspension, or expulsion.
 - (6). Fraternities or sororities.
- 3627. — Employees.
 - (1). In general.
 - (2). Hiring and tenure.
 - (3). Compensation and benefits.
 - (4). Discharge or non-renewal.
- 3628. — Athletics.
- 3629. Trade schools and other miscellaneous educational programs.
- 3630. Other particular issues and applications.

9. ELECTIONS, VOTING, AND POLITICAL RIGHTS.

- 3635. In general.
- 3636. Political parties in general.
- 3637. Contributions and expenditures.
- 3638. Public funding of campaigns.
- 3639. Nomination of candidates.
- 3640. — In general.
- 3641. — Political conventions.
- 3642. — Primary elections.
- 3643. Qualifications of candidates.
- 3644. — In general.
- 3645. — Property ownership.
- 3646. — Payment of fees or taxes.
- 3647. Qualifications of voters.
- 3648. — In general.
- 3649. — Property ownership.
- 3650. — Payment of fees or taxes.

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XXVI. EQUAL PROTECTION.(Cont'd)

- 3651. Conduct of elections.
- 3652. — In general.
- 3653. — Ballot access.
- 3654. — Ballots in general.
- 3655. — Absentee ballots.
- 3656. Equality of voting power (one person, one vote).
- 3657. — In general.
- 3658. — Electoral districts.
 - (1). In general.
 - (2). Power and duty to redistrict and reapportion.
 - (3). Redistricting and reapportionment in general.
 - (4). Equality of representation; discrimination.
 - (5). Gerrymandering in general.
 - (6). Population deviation.
 - (7). Boundaries of political subdivisions, consideration of.
 - (8). Multi-member or floterial districts.
 - (9). Bicameral legislatures.
 - (10). Fractional or weighted voting; proportional representation.
- 3659. — Bodies, officers, and elections subject to limitations.
- 3660. — Political parties and nominations.
- 3661. Other particular issues and applications.

10. WAR AND NATIONAL SECURITY.

- 3665. In general.
- 3666. Selective service and the draft.
- 3667. Offenses and courts-martial.
- 3668. Veterans' benefits.
- 3669. Other particular issues and applications.

11. CONTRACTS.

- 3675. In general.
- 3676. Private contracts.
- 3677. Public contracts.

12. TRADE OR BUSINESS.

- 3680. In general.
- 3681. Licenses and regulation.
- 3682. — In general.
- 3683. — Accountants.

XXVI. EQUAL PROTECTION.(Cont'd)

- 3684. — Attorneys and paralegals.
 - (1). In general.
 - (2). Admission and examination.
 - (3). Discipline.
- 3685. — Barbers, beauticians, and cosmetologists.
- 3686. — Carriers and public utilities; railroads.
- 3687. — Chain stores.
- 3688. — Drugs, medicines, and vaccines.
- 3689. — Financial institutions and transactions.
- 3690. — Firearms dealers and shows.
Right to bear arms in general, see 3478.
- 3691. — Funeral directors, cemeteries, and related occupations.
- 3692. — Gambling and gaming.
- 3693. — Hotels, motels, and other lodging.
- 3694. — Insurance.
- 3695. — Intoxicating liquors.
- 3696. — Health care.
- 3697. — Mining and excavation; oil and gas.
- 3698. — Public amusement and entertainment.
- 3699. — Real estate brokers and agents.
- 3700. — Restaurants; food and drink.
- 3701. — Sales and marketing.
- 3702. — Securities and commodities transactions.
- 3703. — Other particular occupations and businesses.
- 3704. Unfair trade practices.
- 3705. Consumer regulation in general.
- 3706. Antitrust regulation; monopolies.
- 3707. Intellectual property.
- 3708. — In general.
- 3709. — Copyrights.
- 3710. — Trademarks and trade names.
- 3711. Other particular issues and applications.

13. ANIMALS AND PLANTS, REGULATION OF.

- 3715. In general.
- 3716. Domestic animals and pets.
- 3717. Game regulations and hunting.
- 3718. Fish and fishing.
- 3719. Other particular issues and applications.

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14. ENVIRONMENT AND HEALTH.

- 3720. In general.
- 3721. Hazardous waste and substances.
- 3722. Smoking and tobacco regulation.
- 3723. Other particular issues and applications.

15. MOTOR VEHICLES.

Automobile accidents, see 3756.

- 3725. In general.
- 3726. Licensing and registration.
- 3727. — In general.
- 3728. — Taxes and fees.
- 3729. Drivers' licenses.
- 3730. — In general.
- 3731. — Revocation, suspension, or reinstatement.
- 3732. Financial responsibility and insurance requirements.
- 3733. Alcohol and drug-related issues; testing.
- 3734. Other particular issues and applications.

16. FAMILIES AND CHILDREN.

- 3735. In general.
- 3736. Marriage and divorce in general.
- 3737. Property issues.
- 3738. Child custody, visitation, and support.
- 3739. Termination of parental rights.
- 3740. Adoption.
- 3741. Juvenile justice.
- 3742. Other particular issues and applications.

17. TORT OR FINANCIAL LIABILITIES.

- 3745. In general.
- 3746. Damages in general.
- 3747. Immunity in general.
- 3748. Public care, liability for.
- 3749. Liens, mortgages, and security interests.
- 3750. Personal injuries.
- 3751. — In general.
- 3752. — Immunity in general.
- 3753. — Wrongful death and survival.
- 3754. — Medical malpractice.
- 3755. — Airplane accidents.
- 3756. — Motor vehicle accidents.
- 3757. Injuries to property.
- 3758. Penalties and sanctions in general.

XXVI. EQUAL PROTECTION.(Cont'd)

- 3759. Punitive or multiple damages.
- 3760. Interest.
- 3761. Other particular issues and applications.

18. PRIVACY AND SEXUAL MATTERS.

- 3765. In general.
- 3766. Birth control and abortion.
- 3767. Death and suicide.

19. OTHER PARTICULAR ISSUES AND APPLICATIONS.

- 3770. In general.
- 3771. Alternative dispute resolution.
- 3772. Bankruptcy.
- 3773. Contempt.
- 3774. Habeas corpus.
- 3775. Other particular matters.

(F) CRIMINAL LAW.

- 3780. In general.
- 3781. Creation and classification of offenses.
- 3782. Selective enforcement in general.
- 3783. Police action or inaction.
- 3784. — In general.
- 3785. — Investigation in general; searches.
- 3786. — Failure to investigate.
- 3787. — Arrests and investigatory stops.
- 3788. Pretrial detention.
- 3789. Decision to prosecute; discretion.
- 3790. Charging instrument.
- 3791. Grand jury.
- 3792. Double jeopardy.
- 3793. Limitations.
- 3794. Extradition and detainers.
- 3795. Pretrial proceedings in general.
- 3796. Arraignment.
- 3797. Bail.
- 3798. Pleas.
- 3799. Assistance of counsel in general.
- 3800. Disclosure and discovery.
- 3801. Evidence and witnesses.
- 3802. Trial.
- 3803. — In general.
- 3804. — Judicial assignment; recusal.
- 3805. — Time for trial; speedy trial issues.
- 3806. — Instructions.

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XXVI. EQUAL PROTECTION.(Cont'd)

- 3807. Sentencing and punishment.
- 3808. — In general.
- 3809. — Extent of punishment.
- 3810. — Assistance of counsel.
- 3811. — Capital punishment; death penalty.
- 3812. Post-conviction relief.
- 3813. — In general.
- 3814. — Assistance of counsel.
- 3815. Appeal or other proceedings for review.
- 3816. — In general.
- 3817. — Assistance of counsel.
- 3818. — Proportionality review.
- 3819. Probation or suspension of sentence.
- 3820. Pardon or clemency.
- 3821. Parole.
- 3822. Prisons.
- 3823. — In general.
- 3824. — Credits.
- 3825. — Discipline.
- 3826. Criminal records.
- 3827. Other particular issues and applications.

(G) JURIES.

- 3830. In general.
- 3831. Method of selection.
- 3832. Peremptory challenges.
- 3833. Grand juries.

XXVII. DUE PROCESS.

(A) IN GENERAL.

- 3840. In general.
- 3841. Fundamental principles of justice.
- 3842. Law of the land.
- 3843. Relationship to other sources of law.
- 3844. — In general.
- 3845. — Tort law.
- 3846. Relationship to historical or common practice.
- 3847. Relationship to other constitutions.
- 3848. Relationship to other constitutional provisions; incorporation.
- 3849. — In general.
- 3850. — Bill of Rights in general.
- 3851. — First Amendment.
- 3852. — Second Amendment.
- 3853. — Third Amendment.

XXVII. DUE PROCESS.(Cont'd)

- 3854. — Fourth Amendment.
- 3855. — Fifth Amendment.
- 3856. — Sixth Amendment.
- 3857. — Seventh Amendment.
- 3858. — Eighth Amendment.
- 3859. — Ninth Amendment.
- 3860. — Tenth Amendment.
- 3861. Relationship to equal protection guarantee.

(B) PROTECTIONS PROVIDED AND DEPRIVATIONS PROHIBITED IN GENERAL.

- 3865. In general.
- 3866. Fairness in general.
- 3867. Procedural due process in general.
- 3868. Rights, interests, benefits, or privileges involved in general.
- 3869. — In general.
- 3870. — Fundamental rights.
- 3871. — Vested rights.
- 3872. — Life.
- 3873. — Liberties and liberty interests.
- 3874. — Property rights and interests.

Particular issues and applications, see other lines.

- (1). In general.
- (2). Source of right or interest.
- (3). Benefits, rights and interests in.
- 3875. Factors considered; flexibility and balancing.
- 3876. Arbitrariness.
- 3877. Reasonableness, rationality, and relationship to object.
- 3878. Notice and hearing.
- 3879. — In general.
- 3880. — Impartiality.
- 3881. — Notice.
- 3882. — Evidence in general; disclosure.
- 3883. — Presumptions, inferences, and burden of proof.
- 3884. — Degree or standard of proof.
- 3885. — Witnesses; confrontation and cross-examination.
- 3886. — Counsel.
- 3887. — Decision or determination.
- 3888. — Review.
- 3889. Legislative procedure.
- 3890. — In general.
- 3891. — Local government.
- 3892. Substantive due process in general.

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XXVII. DUE PROCESS.(Cont'd)

- 3893. — In general.
- 3894. — Rights and interests protected; fundamental rights.
- 3895. — Reasonableness, rationality, and relationship to object.
- 3896. — Egregiousness; “shock the conscience” test.
- 3897. Discrimination and classification.
- 3898. — In general.
- 3900. — Reasonableness, rationality, and relationship to object.
- 3901. Levels of scrutiny; strict or heightened scrutiny.
- 3902. Police power, relationship to due process.
- 3903. Economic rights and regulation.
- 3904. Legislative jurisdiction; extraterritoriality.
- 3905. Certainty and definiteness; vagueness.
- 3906. Overbreadth.
- 3907. Retrospective laws and decisions; change in law.
- 3908. Mental state.
- 3909. — In general.
- 3910. — Purpose or intent.
- 3911. — Negligence, recklessness, or indifference.
- 3912. Duration and timing of deprivation; pre- or post-deprivation remedies.

(C) PERSONS AND ENTITIES PROTECTED.

- 3920. In general.
- 3921. Non-citizens; aliens.
- 3922. Children and minors.
- 3923. Unborn children; fetuses.
- 3924. Prisoners, detainees, and convicts.
- 3925. Armed services personnel.
- 3926. Organizations and associations.
- 3927. Business organizations; corporations.
- 3928. Government entities.
- 3929. — In general.
- 3930. — Employees and officials.
- 3931. — Foreign governments.
- 3932. Other particular persons and entities.

(D) APPLICABILITY TO GOVERNMENTAL OR PRIVATE CONDUCT; STATE ACTION.

- 3935. In general.
- 3936. Federal government.

XXVII. DUE PROCESS.(Cont'd)

- 3937. State government.
- 3938. Local government.
- 3939. District of Columbia.
- 3940. Territories.
- 3941. Non-government entities and individuals, actions of.
- 3942. Government approval of or acquiescence in private conduct.
- 3943. Creditors’ remedies.
- 3944. — In general.
- 3945. — Foreclosures.

(E) CIVIL ACTIONS AND PROCEEDINGS.

- 3950. In general.
- 3951. Courts in general.
- 3952. Actions and lawsuits in general.
- 3953. Notice and hearing in general.
- 3954. Course and conduct of proceedings in general.
- 3955. Bias and prejudice in general.
- 3956. Access to courts; right to seek remedy.
- 3957. — In general.
- 3958. — Particular persons or circumstances.
Prisoners, see ¶4827.
- 3959. — Conditions precedent.
- 3960. — Vexatious or frequent litigants.
- 3961. Jurisdiction and venue.
- 3962. — In general.
- 3963. — Personal jurisdiction in general.
- 3964. — Non-residents in general.
- 3965. — Particular parties or circumstances.
 - (1). In general.
 - (2). Organizations and associations.
 - (3). Business, business organizations, and corporations in general.
 - (4). Manufacture, distribution, and sale.
 - (5). Services and service providers.
 - (6). Insurers and insurance.
 - (7). Banks, banking, finance, and securities.
 - (8). Media and publishing.
 - (9). Non-profit, charitable, and educational organizations.
 - (10). Representatives of organizations; officers, agents, and employees.

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XXVII. DUE PROCESS.(Cont'd)

- (11). Public entities, employees, and officials.
- 3966. — Jurisdiction of property; in rem and quasi in rem jurisdiction.
- 3967. — Determination; notice and hearing.
- 3968. — Consent; forum-selection clauses.
- 3969. — Change of venue.
- 3970. What law governs; choice of law.
- 3971. Time for proceedings; limitation or suspension of remedy.
- 3972. Parties.
- 3973. Process or other notice.
- 3974. — In general.
- 3975. — Form and adequacy.
- 3976. — Representatives and agents.
- 3977. — Non-residents.
 - (1). In general.
 - (2). Representatives and agents.
- 3978. — Proceedings within action or lawsuit, notice of.
- 3979. Ex parte proceedings or communications.
- 3980. Class actions.
- 3981. — In general.
- 3982. — What law governs; choice of law.
- 3983. — Compromise and settlement.
- 3984. Pleading.
- 3985. Disclosure and discovery.
- 3986. — In general.
- 3987. — Sanctions.
- 3988. Continuance.
- 3989. Dismissal.
- 3990. Jury.
- 3991. Trial.
- 3992. — In general.
- 3993. — Time of trial.
- 3994. — Course and conduct of trial.
- 3995. — Questions of law or fact.
- 3996. — Instructions.
- 3997. — Verdict and findings.
- 3998. — New trial.
- 3999. Evidence and witnesses.
- 4000. — In general.
- 4001. — Presumptions, inferences, and burden of proof.
- 4002. — Admissibility.

XXVII. DUE PROCESS.(Cont'd)

- 4003. — Witnesses; confrontation and cross-examination.
- 4004. — Opinion evidence; experts and expert testimony.
- 4005. — Weight and sufficiency of evidence.
- 4006. — Degree or standard of proof.
- 4007. Judgment or other determination.
- 4008. — In general.
- 4009. — Confession or consent.
- 4010. — Default.
- 4011. — Summary judgment.
- 4012. — Conclusiveness.
- 4013. — Enforcement.
 - (1). In general.
 - (2). Suspension and revival.
 - (3). Attachment, execution, and garnishment; supplementary proceedings.
 - (4). Income or wages, enforcement against.
- 4014. — Foreign judgments.
- 4015. — Interest.
- 4016. Appeal or other proceedings for review.
- 4017. Costs and fees.
- 4018. — In general.
- 4019. — Fees.
- 4020. — Indigents; proceedings in forma pauperis.
- 4021. — Appellate costs and fees.

(F) ADMINISTRATIVE AGENCIES AND PROCEEDINGS IN GENERAL.

- 4025. In general.
- 4026. Rules and regulations.
- 4027. Hearings and adjudications.
- 4028. Judicial review.

(G) PARTICULAR ISSUES AND APPLICATIONS.

1. IN GENERAL.

- 4030. In general.
- 4031. Civil rights in general.
- 4032. Dignity, safety, and happiness.
- 4033. Religion and conscience.
- 4034. Speech, press, assembly, and petition.
- 4035. Association.
- 4036. Travel and movement.
- 4037. Personal and bodily rights in general.

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XXVII. DUE PROCESS.(Cont'd)

- 4038. Language.
- 4039. Indians.
Indian property, lands, and reservations, see §4072.
- 4040. Reputation; defamation.
- 4041. Restraint; commitment, and detention.
- 4042. Threats, harassment, and use of force.
- 4043. Malicious prosecution; abuse of process.
- 4044. Retaliation.
- 4045. Discipline.
- 4046. Benefits, denial of.
- 4047. Duty to protect; failure to act.
- 4048. — In general.
- 4049. — Custody or restraint; special relationship.
- 4050. — Creation of danger or risk.

2. GOVERNMENTS AND POLITICAL SUBDIVISIONS IN GENERAL.

- 4055. In general.
- 4056. Creation, alteration, and regulation.
- 4057. Public improvements and urban renewal.
- 4058. Assessments and special taxes.
- 4059. — In general.
- 4060. — Apportionment according to area, frontage, or valuation.
- 4061. — Notice and hearing.
- 4062. — Provisions as to objections and determination of validity.
- 4063. — Reassessment.
- 4064. — Issuance of bonds.
- 4065. — Provisions for enforcement.
- 4066. — Personal liability.
- 4067. Public records or information.
- 4068. Public or national emergency.

3. PROPERTY IN GENERAL.

- 4070. In general.
- 4071. Real property in general.
- 4072. Indian property and lands; reservations.
- 4073. Housing in general.
- 4074. Building and safety codes.
- 4075. Eminent domain.
- 4076. — In general.
- 4077. — Proceedings.
- 4078. Forfeitures and proceedings therefor.
- 4079. Landlord and tenant.

XXVII. DUE PROCESS.(Cont'd)

- 4080. — In general.
- 4081. — Licenses and permits.
- 4082. — Rent control.
- 4083. Eviction and proceedings therefor.
- 4084. Mineral, oil, and gas rights.
- 4085. Nuisances and nuisance abatement.
- 4086. Water.
- 4087. Wills, trusts, probate, inheritance, and dower.
- 4088. — In general.
- 4089. — Proceedings.
- 4090. Abandoned, lost, or unclaimed property; escheat.
- 4091. Zoning and land use.
- 4092. — In general.
- 4093. — Particular issues and applications.
- 4094. — Signs and billboards.
- 4095. — Adult-oriented uses.
- 4096. — Proceedings and review.
- 4097. Destruction of property.

4. GOVERNMENT PROPERTY, FACILITIES, AND FUNDS.

- 4100. In general.
- 4101. Control and use in general.
- 4102. Sale or lease in general.
- 4103. Transportation.
- 4104. — In general.
- 4105. — Streets, highways, and sidewalks.
 - (1). In general.
 - (2). Construction and maintenance.
 - (3). Billboards and signs.
 - (4). Parking and towing.
 - (5). Non-transportation use; parades and demonstrations.
- 4106. — Bridges.
- 4107. — Airports.
- 4108. Public funds; grants and loans.
- 4109. Public services.
- 4110. — In general.
- 4111. — Emergency or protective services.
- 4112. Public housing.

5. SOCIAL SECURITY, WELFARE, AND OTHER PUBLIC PAYMENTS.

- 4115. In general.
- 4116. Proceedings in general.
- 4117. Aid to children and families.
- 4118. Food stamps and programs.

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XXVII. DUE PROCESS.(Cont'd)

- 4119. Social security.
- 4120. — In general.
- 4121. — Old age and survivor benefits.
- 4122. — Supplemental security income in general.
- 4123. — Disability benefits.
- 4124. Medical assistance.
- 4125. — In general.
- 4126. — Medicaid.
- 4127. — Medicare.
- 4128. — Abortion funding.
- 4129. Unemployment compensation.
- 4130. Other particular issues and applications.

6. TAXATION.

- 4135. In general.
- 4136. Property taxes.
- 4137. — In general.
- 4138. — Assessment and collection.
 - (1). In general.
 - (2). Notice and hearing.
 - (3). Forfeitures and penalties.
- 4139. Transfer taxes.
- 4140. Franchise taxes.
- 4141. Excise taxes.
- 4142. Gift, inheritance, and estate taxes.
- 4143. Income taxes.
- 4144. Employment taxes.
- 4145. Sales and use taxes.
- 4146. Gross receipts taxes.
- 4147. Hotel and motel taxes.
- 4148. Tax sales and proceedings thereon.
- 4149. Federal taxes; internal revenue.
- 4150. Customs duties.

7. LABOR, EMPLOYMENT, AND PUBLIC OFFICIALS.

- 4155. In general.
- 4156. Rights and interests protected in general.
- 4157. Right to choose or pursue profession or occupation in general.
- 4158. Deprivations and adverse employment actions in general.
- 4159. Notice, hearing, proceedings, and review in general.
- 4160. Reputational interests in general, protection and deprivation of.

XXVII. DUE PROCESS.(Cont'd)

- 4161. — In general.
- 4162. — Termination or discharge.
- 4163. Public employment relationships.
- 4164. — In general.
- 4165. — Rights and interests protected in general.
 - (1). In general.
 - (2). Particular positions.
- 4166. — Conduct and control; deprivations and adverse employment actions.
 - (1). In general.
 - (2). Particular issues and applications.
- 4167. — Hiring or appointment.
- 4168. — Discipline.
- 4169. — Promotion, demotion, assignment, and transfer.
- 4170. — Compensation, pensions, and benefits.
- 4171. — Termination or discharge.
- 4172. — Notice and hearing; proceedings and review.
 - (1). In general.
 - (2). Hiring or appointment.
 - (3). Discipline.
 - (4). Promotion, demotion, assignment, and transfer.
 - (5). Compensation, pensions, and benefits.
 - (6). Termination or discharge.
 - (7). Other particular proceedings.
- 4173. — Reputational interests, protection and deprivation of.
 - (1). In general.
 - (2). Particular cases.
 - (3). Termination or discharge.
 - (4). Notice and hearing; proceedings and review.
- 4174. Elected officials.
- 4175. Judges and judicial officers or employees.
- 4176. Regulation of employment.
- 4177. — In general.
- 4178. — Employment discrimination laws.
- 4179. — Wage and hour regulation.
- 4180. — Health and safety regulation.
- 4181. — Pensions and benefits, regulation of.

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XXVII. DUE PROCESS.(Cont'd)

- 4182. — Other particular laws and regulations.
- 4183. Labor relations; labor organizations and collective bargaining.
- 4184. — In general.
- 4185. — Notice and hearing; proceedings and review.
- 4186. Workers' compensation and employers' liability.
- 4187. Employment of physicians; hospital staff privileges.
- 4188. National security issues.

8. EDUCATION.

- 4190. In general.
- 4191. School districts.
- 4192. School boards.
- 4193. Establishment and closing of schools.
- 4194. Administration of schools; property, contracts, and liabilities.
- 4195. School funding and financing; taxation.
- 4196. Employment relationships.
- 4197. — In general.
- 4198. — Rights and interests protected in general.
- 4199. — Conduct and control; deprivations and adverse employment actions.
- 4200. — Termination or discharge.
- 4201. — Tenure.
- 4202. — Notice and hearing; proceedings and review.
- 4203. — Reputational interests, protection and deprivation of.
- 4204. Students.
- 4205. — In general.
- 4206. — Eligibility, admission, and placement.
- 4207. — Academics, curriculum, and instruction.
- 4208. — Extracurricular activities.
- 4209. — Conduct and control.
 - (1). In general.
 - (2). Dress and grooming.
 - (3). Discipline, suspension, or expulsion.
- 4210. — Use of force; assault, abuse, and harassment.
- 4211. — Duty to protect; failure to act.

XXVII. DUE PROCESS.(Cont'd)

- 4212. — Notice and hearing; proceedings and review.
 - (1). In general.
 - (2). Disciplinary proceedings.
- 4213. Disabled students.
- 4214. — In general.
- 4215. — Notice and hearing; proceedings and review.
- 4216. Private schools.
- 4217. Home schooling.
- 4218. Post-secondary education.
- 4219. — In general.
- 4220. — Governing bodies and officials.
- 4221. — Administration; property, contracts, and liabilities.
- 4222. — Funding and financing.
- 4223. — Employment relationships.
 - (1). In general.
 - (2). Rights and interests protected in general.
 - (3). Conduct and control; deprivations and adverse employment actions.
 - (4). Termination or discharge.
 - (5). Tenure.
 - (6). Notice and hearing; proceedings and review.
 - (7). Reputational interests, protection and deprivation of.
- 4224. — Students.
 - (1). In general.
 - (2). Eligibility and admission; academics, curriculum, and instruction.
 - (3). Tuition and fees; scholarships, grants, and loans.
 - (4). Extracurricular activities.
 - (5). Conduct and control.
 - (6). — In general.
 - (7). — Discipline, suspension, or expulsion.
 - (8). Use of force; assault, abuse, and harassment.
 - (9). Duty to protect; failure to act.
 - (10). Notice and hearing; proceedings and review.
 - (11). — In general.
 - (12). — Disciplinary proceedings.

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XXVII. DUE PROCESS.(Cont'd)

- 4225. Trade schools and other miscellaneous educational programs.
- 4226. Interscholastic associations.
- 4227. Accreditation and licensure.
- 4228. Racial composition.

9. ELECTIONS, VOTING, AND POLITICAL RIGHTS.

- 4230. In general.
- 4231. Political parties and organizations.
- 4232. Voters, candidates, and elections.
- 4233. Redistricting and reapportionment.
- 4234. Initiative, recall, and referendum.
- 4235. Lobbying and lobbyists.
- 4236. Contributions and expenditures.
- 4237. Public funding.

10. WAR AND NATIONAL SECURITY.

- 4240. In general.
- 4241. Armed services.
- 4242. — In general.
- 4243. — Discharge or separation.
- 4244. — Pay and benefits.
- 4245. — Offenses and courts-martial.
 - (1). In general.
 - (2). Proceedings.
 - (3). Sentencing and punishment.
 - (4). Review.
- 4246. — Selective service and the draft.
- 4247. — Service academies; ROTC.
- 4248. National Guard.
- 4249. Military installations.
- 4250. Security clearances.
- 4251. Loyalty, espionage, and subversion.
- 4252. Terrorism.
- 4253. Prisoners of war; enemy combatants.

11. CONTRACTS.

- 4255. In general.
- 4256. Public contracts.

12. TRADE OR BUSINESS.

- 4260. In general.
- 4261. Prohibitions in general.
- 4262. Licenses, permits, and certifications in general.
- 4263. Days and hours of operation in general.
- 4264. Charges and prices in general.

XXVII. DUE PROCESS.(Cont'd)

- 4265. Antitrust regulation in general.
- 4266. Particular subjects and regulations.
Weapons and firearms, see 4496.
- 4267. — In general.
- 4268. — Accountants.
- 4269. — Agriculture and crops.
- 4270. — Appraisers and auctioneers.
- 4271. — Architects and engineers.
- 4272. — Asylums and assisted living facilities.
- 4273. — Attorneys.
 - (1). In general.
 - (2). Admission and examination.
 - (3). Conduct and discipline.
- 4274. — Aviation and airspace.
- 4275. — Barbers, beauticians, and cosmetologists.
- 4276. — Chain stores.
- 4277. — Charitable solicitation.
- 4278. — Child care.
- 4279. — Contractors, plumbers, and electricians.
- 4280. — Detectives, private investigators, and security services.
- 4281. — Explosives; fireworks.
- 4282. — Financial institutions, transactions, and services.
- 4283. — Food and beverages; restaurants.
- 4284. — Funeral directors, cemeteries, and related occupations.
- 4285. — Gambling and gaming.
- 4286. — Health care professionals.
- 4287. — Hotels, motels, and other lodging.
- 4288. — Insurance.
- 4289. — Intoxicating liquors.
- 4290. — Mining and excavation; oil and gas.
- 4291. — News gathering and dissemination; newspapers.
- 4292. — Public amusement and entertainment.
- 4293. — Real estate agents and brokers.
- 4294. — Sales and marketing.
- 4295. — Securities and commodities transactions.
- 4296. — Social workers, counselors, and psychologists.
- 4297. — Veterinarians.

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XXVII. DUE PROCESS.(Cont'd)

- 4299. Government competition with private business.
- 4300. Intellectual property.
- 4301. — In general.
- 4302. — Copyrights.
- 4303. — Patents.
- 4304. — Trademarks and trade names.

13. ANIMALS AND PLANTS, REGULATION OF.

- 4310. In general.
- 4311. Domestic animals and pets.
- 4312. Fence and stock laws.
- 4313. Game and hunting.
- 4314. Fish and fishing.

14. ENVIRONMENT AND HEALTH.

- 4320. In general.
- 4321. Woods and forests.
- 4322. Historical preservation.
- 4323. Water, wetlands, and water pollution.
- 4324. Air pollution.
- 4325. Noise pollution.
- 4326. Waste disposal and management.
- 4327. Hazardous waste or materials.
- 4328. Plants and wildlife; endangered species.
- 4329. Health care; hospitals and nursing homes.
- 4330. Drugs and medical devices.
- 4331. Public health.
- 4332. Smoking and tobacco regulation.

15. MENTAL HEALTH.

- 4335. In general.
- 4336. Duty to protect; failure to act.
- 4337. Commitment and proceedings therefor.
- 4338. Confinement and conditions thereof.
- 4339. Guardianship.
- 4340. Developmental disability; mental disability.
- 4341. Sexually dangerous persons; sex offenders.
- 4342. — In general.
- 4343. — Classification and registration; restrictions and obligations.
- 4344. — Commitment and confinement.
- 4345. Chemical dependency.
- 4346. Children and minors.

XXVII. DUE PROCESS.(Cont'd)

- 4347. — In general.
- 4348. — Sexually dangerous persons; sex offenders.

16. MOTOR VEHICLES.

- 4350. In general.
- 4351. Licensing and registration of vehicles.
- 4352. — In general.
- 4353. — Taxes and fees.
- 4354. Drivers' licenses.
- 4355. — In general.
- 4356. — Revocation, suspension, or reinstatement.
- 4357. Financial responsibility and insurance requirements.
- 4358. Alcohol and drug-related issues; testing.

17. CARRIERS AND PUBLIC UTILITIES.

- 4360. In general.
- 4361. Charges and prices in general.
- 4362. Aviation.
- 4363. Railroads.
- 4364. Motor carriers; trucking.
- 4365. Public transit systems.
- 4366. Buses and shuttle services.
- 4367. Taxicabs and limousines.
- 4368. Ferries.
- 4369. Towing and wrecking services.
- 4370. Telecommunications.
- 4371. Gas and electricity.
- 4372. Water, sewer, and irrigation.
- 4373. Garbage collection and hauling.
- 4374. Other particular carriers and utilities.

18. FAMILIES AND CHILDREN.

- 4380. In general.
- 4381. Proceedings in general.
- 4382. Familial association, integrity, and privacy in general.
- 4383. Marital relationship.
- 4384. — In general.
- 4385. — Same-sex marriage.
- 4386. — Termination; divorce, dissolution, and separation.
- 4387. — Spousal support; alimony.
- 4388. Cohabitation; domestic partnerships.
- 4389. Children and minors in general.

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XXVII. DUE PROCESS.(Cont'd)

- 4390. Parent and child relationship.
- 4391. — In general.
- 4392. — Children out-of-wedlock; paternity.
- 4394. Guardianship.
- 4395. Adoption.
- 4396. Child custody, visitation, and support.
- 4397. Domestic abuse.
- 4398. — In general.
- 4399. — Reports and lists.
- 4400. Protection of children; child abuse, neglect, and dependency.
- 4401. — In general.
- 4403. — Reports and lists.
- 4403.5. Removal or termination of parental rights.
- 4404. Foster care.

19. TORT OR FINANCIAL LIABILITIES.

- 4410. In general.
- 4411. Debtor and creditor in general.
- 4412. Damages in general.
- 4413. Immunity in general.
- 4414. Support of persons and liability for public care in general.
- 4415. Liens, mortgages, and security interests.
- 4416. — In general.
- 4417. — Enforcement; proceedings.
- 4418. Torts and personal injuries.
- 4419. — In general.
- 4420. — Immunity in general.
- 4421. — Wrongful death and survival.
- 4422. — Professional malpractice.
- 4423. — Aviation.
- 4424. — Motor vehicles.
- 4425. Injuries to property.
- 4426. Penalties, fines, and sanctions in general.
- 4427. Punitive damages.
- 4428. Interest.
- 4429. Exemptions.

20. ALIENS, IMMIGRATION, AND CITIZENSHIP.

- 4435. In general.
- 4436. Proceedings in general.
- 4437. Status, rights, and disabilities in general.
- 4438. Admission and exclusion; deportation.

XXVII. DUE PROCESS.(Cont'd)

- 4439. Arrest, detention, supervision, and parole.
- 4440. Asylum, refugees, and withholding of removal.
- 4441. Citizenship and naturalization.

21. PRIVATE ORGANIZATIONS.

- 4445. In general.
- 4446. Corporations and limited liability companies.
- 4447. Religious organizations.

22. PRIVACY AND SEXUAL MATTERS.

- 4450. In general.
- 4451. Abortion, contraception, and birth control.
- 4452. — In general.
- 4453. — Minors.
- 4454. Refusal of medical treatment.
- 4455. Right to die; suicide and euthanasia.

23. SEARCH, SEIZURE, AND CONFISCATION.

- 4460. In general.
- 4461. Samples and tests; identification procedures.
- 4462. Electronic surveillance or eavesdropping.

24. JUVENILE JUSTICE.

- 4464. In general.
- 4465. Proceedings.
- 4466. Transfer to and from adult court.
- 4467. Sentencing and punishment.
- 4468. Probation.
- 4469. Correctional facilities and related institutions.

25. OTHER PARTICULAR ISSUES AND APPLICATIONS.

- 4475. In general.
- 4476. Alternative dispute resolution.
- 4477. Financial impairment and insolvency; receivers.
- 4478. Bankruptcy.
- 4479. Special, summary, or provisional remedies and proceedings.
- 4480. — In general.
- 4481. — Attachment.
- 4482. — Garnishment.

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XXVII. DUE PROCESS.(Cont'd)

- 4483. — Replevin.
- 4484. — Sequestration.
- 4485. — Distrain.
- 4486. — Lis pendens; notice of pendency.
- 4487. — Preliminary injunction; temporary restraining order.
- 4488. Orders for protection.
- 4489. Habeas corpus.
- 4490. Extradition and detainers.
- 4491. Coroner's inquest; autopsies.
- 4492. Contempt.
- 4493. — In general.
- 4494. — Proceedings.
- 4495. — Punishment.
- 4496. Weapons and firearms.

(H) CRIMINAL LAW.

1. IN GENERAL.

- 4500. In general.

2. NATURE AND ELEMENTS OF CRIME.

- 4501. In general.
- 4502. Creation and definition of offense.
- 4503. — In general.
- 4504. — Statutory construction in general.
- 4505. — Certainty and definiteness in general.
- 4506. — Vagueness.
- 4507. — Overbreadth.
- 4508. — Retroactive laws and decisions; change in law.
- 4509. — Particular offenses.
 - (1). In general.
 - (2). Abortion and birth control.
 - (3). Arson and malicious mischief.
 - (4). Assault and battery.
 - (5). Burglary and trespass.
 - (6). Conspiracy, racketeering, and money laundering.
 - (7). Counterfeiting and forgery.
 - (8). Disorderly conduct and breach of the peace.
 - (9). Drugs; controlled substances.
 - (10). Escape.
 - (11). Extortion, threats, stalking, and harassment.
 - (12). False pretenses and fraud.
 - (13). Gambling and gaming.

XXVII. DUE PROCESS.(Cont'd)

- (14). Homicide, mayhem, and assault with intent to kill.
- (15). Infants, children, and minors, offenses specific to.
- (16). Kidnapping and false imprisonment.
- (17). Larceny, embezzlement, and receiving stolen property.
- (18). Liquor offenses.
- (19). Motor vehicle offenses.
- (20). Obscenity and lewdness.
- (21). Obstructing justice, bribery, perjury.
- (22). Robbery.
- (23). Sex offenses, incest, and prostitution.
- (24). Tax and internal revenue offenses.
- (25). Weapons and explosives.
- 4510. Different offenses in same transaction; merger.
- 4511. Defenses in general.
- 4512. Capacity to commit and responsibility for crime.
- 4513. — In general.
- 4514. — Insanity or mental illness.
- 4515. — Intoxication.
- 4516. Parties to offenses.

3. LAW ENFORCEMENT.

- 4520. In general.
- 4521. Conduct of police and prosecutors in general.
- 4522. — In general.
- 4523. — Investigative activity in general.
- 4524. — Entrapment.
- 4525. — Reliance on official assurance as to legality of conduct.
- 4526. — Immunity or cooperation agreements.
- 4527. — Charging decisions; prosecutorial discretion.
 - (1). In general.
 - (2). Misuse or abuse.
- 4528. — Neglect or delay.
- 4529. Preliminary complaint and warrant.
- 4530. — In general.
- 4531. — Bench warrants.
- 4532. — Arrest warrants.

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XXVII. DUE PROCESS.(Cont'd)

- 4533. Stop and arrest.
- 4534. — In general.
- 4535. — Neglect or delay.
- 4536. — Grounds.
- 4537. — Conduct.
- 4538. — Search incident to stop or arrest.
- 4539. — Arrest records.
- 4540. Vehicle pursuits.
- 4541. — In general.
- 4542. — Rights of third parties; bystanders.
- 4543. Custody and confinement of suspects; pretrial detention.
- 4544. — In general.
- 4545. — Conditions.
 - (1). In general.
 - (2). Medical treatment.
 - (3). Safety and security.
 - (4). Other particular conditions.
- 4546. — Duration.
- 4547. Release.
- 4548. — In general.
- 4549. — Bail.
- 4550. — Bond, undertaking, or recognizance.
- 4551. — Release pending appeal.
- 4552. Detention of witnesses.

4. PROCEEDINGS AND TRIAL.

- 4555. In general.
- 4556. Rights to notice, hearing, and defense, in general.
- 4557. Course and conduct of proceedings in general.
- 4558. Bias and prejudice in general.
- 4559. Jurisdiction and venue.
- 4560. Extraterritorial application of penal laws.
- 4561. Time for proceedings in general; limitations.
- 4562. Successive prosecutions; former jeopardy.
- 4563. — In general.
- 4564. — Mistrial, proceedings after.
- 4565. — Offenses against different sovereignties or governmental units.
- 4566. — Collateral estoppel.
- 4567. Pretrial proceedings in general.

XXVII. DUE PROCESS.(Cont'd)

- 4568. Preliminary examination, hearing, or commitment.
- 4569. — In general.
- 4570. — Timeliness.
- 4571. — Conduct of proceedings.
- 4572. Grand jury.
- 4573. — In general.
- 4574. — Composition.
- 4575. — Conduct of proceedings.
- 4576. — Evidence and witnesses.
- 4577. — Appearance and testimony of accused.
- 4578. Charging instruments; indictment and information.
- 4579. — In general.
- 4580. — Neglect or delay.
- 4581. — Form, requisites, and sufficiency.
- 4582. — Relation between allegations and proof; variance.
- 4583. — Amended, successive, and superseding instruments.
- 4584. Arraignment.
- 4585. Pleas.
- 4586. — In general.
- 4587. — Guilty pleas.
- 4588. — Other particular pleas.
- 4589. — Change of plea; withdrawal.
- 4590. — Plea agreements.
- 4591. Pretrial dismissal or discontinuance.
- 4592. Disclosure and discovery.
- 4593. — In general.
- 4594. — Evidence.
 - (1). In general.
 - (2). Particular items or information, disclosure of.
 - (3). — In general.
 - (4). — Witnesses.
 - (5). — Agreements.
 - (6). Duty to collect, find, or obtain.
 - (7). Duty to conduct or allow testing or other analysis.
 - (8). Duty to preserve.
 - (9). Requests for disclosure.
 - (10). Time and manner of disclosure.
 - (11). Proceedings concerning disclosure.
- 4595. — Grand jury testimony and proceedings.

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XXVII. DUE PROCESS.(Cont'd)

- 4596. — Notice of defense.
- 4597. — Other issues and applications.
- 4598. Trial in general.
- 4599. — In general.
- 4600. — Right to fair trial in general.
- 4601. — Course and conduct of trial in general.
- 4602. Summary trial and conviction; bench trials.
- 4603. Public trial.
- 4604. — In general.
- 4605. — Publicity.
- 4606. Recordation; court reporters.
- 4607. Joinder and consolidation.
- 4608. Severance.
- 4609. Time of trial.
- 4610. — In general.
- 4611. — Adequacy of time to prepare; continuance.
- 4612. — Undue delay; speedy trial.
- 4613. Presence and appearance of defendant and counsel.
- 4614. — In general.
- 4615. — Clothing.
- 4616. — Custody and restraint.
- 4617. Judges.
- 4618. — In general.
- 4619. — Selection and assignment.
- 4620. — Qualifications.
- 4621. — Impartiality; bias and prejudice.
- 4622. — Removal; recusal.
- 4623. — Conduct and comments.
- 4624. Prosecutors.
- 4625. — In general.
- 4626. — Appointment, qualifications, and removal.
- 4627. Conduct and comments of counsel; argument.
- 4628. — In general.
- 4629. — Prosecutor.
- 4630. — Defense counsel.
- 4631. Use of perjured or falsified evidence.
- 4632. — In general.
- 4633. — Failure to correct false testimony.
- 4634. Questions of law or fact.
- 4635. Instructions.
- 4636. — In general.
- 4637. — Particular issues and applications.

XXVII. DUE PROCESS.(Cont'd)

- 4638. — Presumptions, inferences, and burden of proof.
 - 4639. — Degree of proof; reasonable doubt.
 - 4640. Verdict.
 - 4641. — In general.
 - 4642. — Directed verdict.
 - 4643. — Verdict forms.
 - 4644. — Special verdicts.
 - 4645. — Inconsistent verdicts.
 - 4646. New trial.
 - 4647. Cumulative errors.
- ### 5. EVIDENCE AND WITNESSES.
- 4650. In general.
 - 4651. Right to present evidence in general.
 - 4652. Reception of evidence in general.
 - 4653. Presumptions, inferences, and burden of proof.
 - 4654. Admissibility in general.
 - 4655. Improperly obtained evidence; suppression.
 - 4656. Identification evidence and procedures.
 - 4657. — In general.
 - 4658. — Out-of-court or pretrial identification or confrontation.
 - (1). In general.
 - (2). Lineups.
 - (3). Show-ups.
 - (4). Photographs and drawings.
 - 4659. — In-court identification.
 - (1). In general.
 - (2). Effect of improper pretrial identification.
 - 4660. — Determination of admissibility; suppression.
 - 4661. Statements, confessions, and admissions.
 - 4662. — In general.
 - 4663. — Voluntariness, compulsory testimony, and self-incrimination in general.
 - 4664. — Circumstances under which made; interrogation.
 - (1). In general.
 - (2). Particular cases.
 - 4665. — Recordation.
 - 4666. — Silence.
 - 4667. — Determination of admissibility; suppression.

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XXVII. DUE PROCESS.(Cont'd)

- 4668. — Third party's statements, confessions, and admissions.
- 4669. Other acts and offenses.
- 4670. Hearsay.
- 4671. Other particular kinds or items of evidence.
- 4672. Witnesses in general.
- 4673. — In general.
- 4674. — Competency and qualifications.
- 4675. — Examination.
- 4676. — Sequestration.
- 4677. Right to present witnesses; compulsory process.
- 4678. Confrontation.
- 4679. Cross-examination.
- 4680. Credibility and impeachment.
- 4681. Opinion evidence.
- 4682. — In general.
- 4683. — Expert testimony.
- 4684. Defendant as witness.
- 4685. — In general.
- 4686. — Credibility and impeachment.
- 4687. — Silence.
- 4688. — Defendant's right to testify.
- 4689. Interference with witnesses.
- 4690. Vouching for witnesses; bolstering.
- 4691. Judicial questioning of witnesses.
- 4692. Immunity and privilege.
- 4693. Weight and sufficiency of evidence.
- 4694. Degree of proof; reasonable doubt.

6. JUDGMENT AND SENTENCE.

- 4700. In general.
- 4701. Treatment of defendants following conviction but before sentencing.
- 4702. Propriety of sentence in general.
- 4703. Discrimination or vindictiveness in general.
- 4704. Matters considered in sentencing.
- 4705. — In general.
- 4706. — Presentence report.
- 4707. — Credits.
- 4708. — Evidence and witnesses.
- 4709. Sentencing guidelines.
- 4710. Statutory minimum, maximum, or mandatory sentences.
- 4711. Multiple sentences; concurrent or consecutive terms.

XXVII. DUE PROCESS.(Cont'd)

- 4712. Sentencing proceedings.
- 4713. — In general.
- 4714. — Right to hearing in general.
- 4715. — Course and conduct of proceedings in general.
- 4716. — Notice; disclosure and discovery.
- 4717. — Bifurcation.
- 4718. — Time for proceedings; continuance.
- 4719. — Presence and appearance of defendant and counsel.
- 4720. — Judges.
- 4721. — Prosecutors.
- 4722. — Conduct and comments of counsel; argument.
- 4723. — Instructions.
- 4724. Resentencing.
- 4725. — In general.
- 4726. — Reconsideration or modification.
- 4727. Presumptions, inferences, and burden of proof.
- 4728. Degree of proof; reasonable doubt.
- 4729. Habitual and career offenders.
- 4730. Probation and related dispositions.
- 4731. — In general.
- 4732. — Conditions.
- 4733. — Reconsideration, modification, or revocation.
 - (1). In general.
 - (2). Notice and hearing; proceedings.
- 4734. — Suspension of sentence.
- 4735. — Supervised release.
- 4736. Penalties and fines.
- 4737. Restitution.
- 4738. Alternative dispositions.
- 4739. Pretrial diversion and intervention.
- 4740. Execution of sentence.
- 4741. Capital punishment; death penalty.
- 4742. — In general.
- 4743. — Persons eligible.
- 4744. — Matters considered.
 - (1). In general.
 - (2). Evidence and witnesses.
- 4745. — Proceedings.
- 4746. — Execution of sentence.

7. JURY.

- 4750. In general.

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- 4751. Necessity; right to jury trial.
- 4752. — In general.
- 4753. — Sentencing.
- 4754. Fair and impartial jury.
- 4755. Selection and qualifications; voir dire.
- 4756. — In general.
- 4757. — Recordation.
- 4758. — Presence of defendant or counsel.
- 4759. — Conduct and comments of prosecutor.
- 4760. — Death penalty cases.
- 4761. Conduct of or affecting jurors; deliberations.
- 4762. Unanimity.
- 4763. Sequestration.

8. APPEAL OR OTHER PROCEEDINGS FOR REVIEW.

- 4765. In general.
- 4766. Right to review.
- 4767. Timeliness.
- 4768. Record.
- 4769. Course and conduct of proceedings.
- 4770. Standard and scope of review.
- 4771. Determination and disposition.
- 4772. Death penalty cases.
- 4773. — In general.
- 4774. — Proportionality review.

9. DISADVANTAGED PERSONS.

- 4780. In general.
- 4781. Incompetency or mental illness.
- 4782. — In general.
- 4783. — Determination of competency or sanity.
 - (1). In general.
 - (2). Necessity; right to hearing.
 - (3). Course and conduct of proceedings.
 - (4). Presumptions, inferences, and burden of proof.
 - (5). Degree of proof; reasonable doubt.
- 4784. — Commitment pending competency determination.
- 4785. — Administration of drugs.
- 4786. — Capital punishment; death penalty.
- 4787. Indigency.
- 4788. — In general.
- 4789. — Expert assistance.

XXVII. DUE PROCESS.(Cont'd)

- (1). In general.
- (2). Psychological or psychiatric assistance.
- 4790. — Other kinds of assistance.
- 4791. — Transcript.
- 4792. — Recoupment of costs.
- 4793. Non-English speakers; interpreters.
- 4794. Hearing impairment.
- 4795. Other condition, disability, or illness.

10. COUNSEL.

- 4800. In general.
- 4801. Necessity; right to counsel in general.
- 4802. Notice and assertion of right in general.
- 4803. Stage of prosecution.
- 4804. — In general.
- 4805. — Investigation, apprehension, and interrogation.
- 4806. — Proceedings; trial.
- 4807. — Sentencing.
- 4808. — Appeal or other proceedings for review.
- 4809. Appointment of counsel.
- 4810. Choice of counsel.
- 4811. Waiver of counsel; self-representation.
- 4812. Adequacy and effectiveness of representation.
- 4813. — In general.
- 4814. — Appellate counsel.
- 4815. — Conflict of interest.
- 4816. Withdrawal; disqualification.

11. IMPRISONMENT AND INCIDENTS THEREOF.

- 4820. In general.
- 4821. Conditions of confinement in general.
- 4822. Property and employment.
- 4823. Medical care and treatment.
- 4824. Discipline and classification.
- 4825. Use of force; protection from violence.
- 4826. Segregation.
- 4827. Access to courts.
- 4828. Transfer.
- 4829. Reduction of term; good-time credits.
- 4830. Discharge and release.
- 4831. Costs of incarceration.

12. OTHER PARTICULAR ISSUES AND APPLICATIONS.

- 4835. In general.

93. CONTEMPT

- 4836. Post-conviction relief.
- 4837. Pardon and clemency.
- 4838. Parole.
- 4839. Criminal record.
- 4840. Victim rights.
- 4841. Costs.

XXVIII. ENFORCEMENT OF FOURTEENTH AMENDMENT.

(A) IN GENERAL.

- 4850. In general.
- 4851. Substantive rights or legislation.
- 4852. Deterring, preventing, or remedying violations.
- 4853. Congruence and proportionality.
- 4854. Discrimination or inequality in general.
- 4855. Racial discrimination.
- 4856. Gender discrimination.
- 4857. Equal Protection Clause, enforcement of.
- 4858. Due Process Clause, enforcement of.

(B) PARTICULAR ISSUES AND APPLICATIONS.

- 4860. In general.
- 4861. Governmental immunity in general.
- 4862. — In general.
- 4863. — Abrogation of immunity.
- 4864. Intellectual property.
- 4865. Civil rights legislation in general.
- 4866. Disabled persons.
- 4867. Religious freedoms.
- 4868. Labor and employment.
- 4869. — In general.
- 4870. — Age discrimination in general.
- 4871. — Wages and hours regulations.
- 4872. — Family and medical leave.
- 4873. Education.
- 4874. Criminal law and related remedies.

93. CONTEMPT

SUBJECTS INCLUDED

Disobedience to the process, orders or rules of courts, and other acts or conduct in

disregard of their authority or dignity, tending to impede or frustrate the administration of law

What constitutes such contempt, civil or criminal, in general

What persons are liable therefor

Power to punish contempt and proceedings therefor; and punishment of contempt

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Attorneys, summary jurisdiction of courts over, see ATTORNEY AND CLIENT

Contempt as discovery sanction, see FEDERAL CIVIL PROCEDURE or PRETRIAL PROCEDURE

Other bodies, contempt of authority—

Administrative tribunals, see ADMINISTRATIVE LAW AND PROCEDURE and topics dealing with particular administrative tribunals

Congress, see UNITED STATES

State legislatures, see STATES

Particular writs, orders or other mandates of courts, disobedience to, see CREDITORS' REMEDIES, DIVORCE, INJUNCTION, MANDAMUS, NUISANCE, WITNESSES, and other specific topics

Receivers, interference with possession of, see RECEIVERS, CORPORATIONS AND BUSINESS ORGANIZATIONS

Violation of a child custody or support order, see CHILD CUSTODY or CHILD SUPPORT

Violation of non-discovery protective order, see PROTECTION OF ENDANGERED PERSONS

- I. ACTS OR CONDUCT CONSTITUTING CONTEMPT OF COURT, ¶1-29.
- II. POWER TO PUNISH, AND PROCEEDINGS THEREFOR, ¶30-69.
- III. PUNISHMENT, ¶70-82.

I. ACTS OR CONDUCT CONSTITUTING CONTEMPT OF COURT.

- 1. Nature and elements of contempt.
- 2. — In general.
- 3. — Criminal contempt.
- 4. — Civil contempt.
- 5. Constitutional and statutory provisions.

93. CONTEMPT

I. ACTS OR CONDUCT CONSTITUTING CONTEMPT OF COURT.(Cont'd)

6. Misconduct in presence of court.
7. Disturbance of proceedings of court.
8. Publications relating to court, jury, or officers.
9. Publications relating to pending proceedings.
10. Misconduct as officer of court.
11. Abuse of mandate or other proceeding.
12. Preventing attendance of party or witness.
13. Suppression or falsification of evidence.
14. Misconduct of or affecting jury.
15. Destruction or removal of subject of suit.
16. Fictitious bail or other security.
17. Resistance to or interference with execution of process or other mandate.
18. Interference with property in custody of the law.
19. Disobedience to mandate, order, or judgment.
20. — In general.
21. — Validity of mandate, order, or judgment.
22. — Stay or review of proceedings.
23. — Service on or knowledge of party or other person.
24. — Ability to obey.
25. — Demand and refusal of payment of money as adjudged.
26. — Demand and refusal of performance of act required.
27. Acts or defaults affecting only rights or remedies of parties to proceedings.
28. Defenses.
 - (1). In general.
 - (2). Acting under advice of counsel.
 - (3). Ignorance of law.
29. Persons liable.

II. POWER TO PUNISH, AND PROCEEDINGS THEREFOR.

30. Nature and grounds of power.
31. Constitutional and statutory provisions.
32. Scope and extent of authority.
33. — In general.
34. — Superior courts.
35. — Inferior courts.
36. — Judges and other officers.
37. Existence of other remedy.

II. POWER TO PUNISH, AND PROCEEDINGS THEREFOR.(Cont'd)

38. Former proceedings or adjudication.
39. Discretion of court.
40. Nature and form of remedy.
41. Persons entitled to prosecute.
 - 41.1. — In general.
42. — Proceedings on court's own motion.
43. — Injury to prosecutor.
44. Jurisdiction.
45. Venue.
46. Limitations and laches.
47. Abatement of proceedings.
48. — In general.
49. — Termination of original action or proceeding.
50. Mode of entitling proceedings.
51. Summary proceedings.
 - 51.1. — In general.
52. — Contempts in presence of court.
53. — Contempts not in presence of court.
54. Preliminary affidavit or information.
 - (.5). In general.
 - (1). Necessity.
 - (2). Formal requisites in general.
 - (3). Statements on information and belief.
 - (4). Sufficiency.
 - (5). Waiver thereof or of defects therein.
 - (6). Filing affidavit of charge.
 - (7). Amendment or withdrawal.
55. Notice or other process; attachment.
56. Arrest and bail.
57. Appearance and arraignment.
58. Plea, answer, or counter affidavit.
 - (1). In general.
 - (2). Right or necessity to put in answer or affidavit.
 - (3). Conclusiveness.
 - (4). Disclaimer of intention to commit contempt.
59. Interrogatories and answers thereto.
60. Evidence.
 - (.5). In general.
 - (1). Presumptions and burden of proof.
 - (2). Admissibility.
 - (3). Weight and sufficiency.

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II. POWER TO PUNISH, AND PROCEEDINGS THEREFOR.(Cont'd)

61. Hearing and determination.
 - (1). In general; counsel.
 - (2). Questions for jury.
 - (3). Matters determined on hearing.
 - (4). Affording defendant opportunity to exculpate himself.
 - (5). Directing reference.
 - (6). Findings.
62. New trial.
63. Judgment or order.
 - (1). In general.
 - (2). Alternative judgment or order.
 - (3). Matters to be stated in general.
 - (4). Facts constituting contempt.
 - (5). Modifying, vacating, or making subsequent order.
64. Commitment.
65. Quashing or vacating proceedings.
66. Appeal or error.

Review of contempt of injunction, see INJUNCTION
§1799.

 - (5). In general.
 - (1). Nature and form of remedy and jurisdiction.
 - (2). Decisions reviewable.
 - (3). Presentation and reservation of grounds of review.
 - (4). Right of review and parties.
 - (5). Transfer of cause and supersedeas.
 - (6). Record and assignment of errors.
 - (7). Review.
 - (8). Determination and disposition of cause.
 - (9). Liability on bonds.
67. Certiorari.

Review of contempt of injunction, see INJUNCTION
§1799.
68. Costs and fees.
69. Liabilities on bonds or undertakings.

III. PUNISHMENT.

70. Nature and grounds in general.
71. Constitutional and statutory provisions.
72. Punishment of contempt as criminal.
73. Indemnity to party injured.
74. — In general.
75. — Amount of fine.

III. PUNISHMENT.(Cont'd)

76. — Collection and disposition of fine.
77. Imprisonment on nonpayment of fine.
78. Imprisonment to compel payment of money.
79. Imprisonment to compel performance of act required.
80. Denial of privileges as litigant.
81. Purging contempt after adjudication.
82. Remission of fine, or discharge from imprisonment.

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SUBJECTS INCLUDED

Promises and agreements in general, express or implied, oral or written, and more particularly executory agreements
Their nature, requisites, validity, incidents, construction, operation and effect
Evidence relating thereto
Modification or rescission thereof by new agreements or by acts of parties
Discharge of the obligations thereof by operation of law or by performance or breach
Actions for breach

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Acknowledgments of contracts in writing, see ACKNOWLEDGMENT
Actions and remedies other than action for damages for breach—
Compelling performance, see SPECIFIC PERFORMANCE
Declaratory judgment as to construction and validity of contract, see DECLARATORY JUDGMENT
Injunction against breach, see INJUNCTION
Particular forms of action, see ACTION, DEBT, ACTION OF and other specific topics
Alteration of written contract, see ALTERATION OF INSTRUMENTS

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Arbitration provisions, see ALTERNATIVE DISPUTE RESOLUTION

Compelling cancellation, surrender, etc. of contracts, see CANCELLATION OF INSTRUMENTS

Damages for breach, including liquidated damages and penalties, see DAMAGES and specific topics relating to particular kinds of contracts

Discharge of obligations, particular modes, see PAYMENT, RELEASE, TENDER, ACCORD AND SATISFACTION and other specific topics

Evidence of written contracts and parol evidence to explain them, see EVIDENCE

Frauds, statute of, requirements of, see FRAUDS, STATUTE OF

Illegality, particular grounds, see CHAMPERTY AND MAINTENANCE, GAMING, LOTTERIES, SUNDAY, USURY and other specific topics

Impairing obligation of contract, see CONSTITUTIONAL LAW XXII

Implied, constructive, and quasi contracts, created by operation of law, and remedies thereon, see ACCOUNT STATED, IMPLIED AND CONSTRUCTIVE CONTRACTS, and other specific Topics

Indians or tribes, issues peculiar to contracts with, see INDIANS ¶142

Lost instruments, establishing and enforcing, see LOST INSTRUMENTS

Particular kinds of contracts, see BAILMENT, SALES, COVENANTS and other specific topics—

Particular occupations or transactions, contracts incident to, see INTOXICATING LIQUORS, INNKEEPERS, INSURANCE, CARRIERS and other specific topics

Property, contracts relating to or affecting particular kinds, see CROPS, EASEMENTS, FENCES, FIXTURES, PATENTS, PUBLIC LANDS and other specific topics

Written instruments containing contracts, particular kinds, see DEEDS, BILLS AND NOTES, LANDLORD AND TENANT, MORTGAGES AND DEEDS OF TRUST, and other specific topics

Particular personal relations, contracts between persons in, see MARRIAGE AND COHABITATION, ATTORNEY AND

CLIENT, PRINCIPAL AND AGENT, and other specific topics

Particular persons, contracts by, see INFANTS, MENTAL HEALTH and other specific topics—

Associations and unincorporated companies, see ASSOCIATIONS, CORPORATIONS AND BUSINESS ORGANIZATIONS XV

Corporations, see CORPORATIONS AND BUSINESS ORGANIZATIONS

Governments, see UNITED STATES, STATES, TERRITORIES, TREATIES

Partners, see PARTNERSHIP

Political or municipal bodies or officers, see MUNICIPAL CORPORATIONS, COUNTIES, EDUCATION, HIGHWAYS, and other specific topics

Reformation of contracts, see REFORMATION OF INSTRUMENTS

Statutes, obligations imposed by, see GAMING, USURY and other specific topics

I. REQUISITES AND VALIDITY, ¶1-142.

- (A) NATURE AND ESSENTIALS IN GENERAL, ¶1-10.
- (B) PARTIES, PROPOSALS, AND ACCEPTANCE, ¶11-29.
- (C) FORMAL REQUISITES, ¶30-46.
- (D) CONSIDERATION, ¶47-91.
- (E) VALIDITY OF ASSENT, ¶92-100.
- (F) LEGALITY OF OBJECT AND OF CONSIDERATION, ¶101-142.

II. CONSTRUCTION AND OPERATION, ¶143-235.

- (A) GENERAL RULES OF CONSTRUCTION, ¶143-176.
- (B) PARTIES, ¶177-188.5.
- (C) SUBJECT-MATTER, ¶189-206.
- (D) PLACE AND TIME, ¶207-217.
- (E) CONDITIONS, ¶218-227.
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III. MODIFICATION AND MERGER, ¶236-248.

IV. RESCISSION AND ABANDONMENT, ¶249-274.

V. PERFORMANCE OR BREACH, ¶275-323.

VI. ACTIONS FOR BREACH, ¶324-355.

I. REQUISITES AND VALIDITY.

(A) NATURE AND ESSENTIALS IN GENERAL.

1.1. In general.

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I. REQUISITES AND VALIDITY.(Cont'd)

- 1.2. Definition.
- 1.3. Freedom of contract.
- 1.4. Elements in general.
- 1.5. Unilateral contracts.
- 1.6. Bilateral contracts.
- 1.7. Effect in general; enforcement in general.
- 1.8. Unreasonable or oppressive contracts.
- 1.9. — In general.
- 1.10. — Adhesion contracts; standardized contracts.
- 1.11. — Unconscionable contracts.
 - (1). In general.
 - (2). Procedural unconscionability.
 - (3). Substantive unconscionability.
 - (4). Defense of unconscionability.
- 1.12. — Burden of proof; presumptions.
- 1.13. — Severability.
- 1.14. — Questions for jury.
- 1.15. — Particular contracts.
2. What law governs.
3. Express contract.
6. Executed and executory contracts.
7. Nature of subject-matter.
8. Existence and condition of subject-matter.
9. Certainty as to subject-matter.
 - (1). In general.
 - (2). Services and compensation therefor.
 - (3). Place and time.
10. Mutuality of obligation.

Sales of goods, see SALES ¶712.

 - (1). In general.
 - (2). Building, manufacturers, and services.
 - (3). Contracts of carriage.
 - (5). Sales and conveyances of land.
 - (6). Loans and advances.
 - (7). Slot machine contract.

(B) PARTIES, PROPOSALS, AND ACCEPTANCE.

11. Capacity to contract in general.
12. Contract in particular capacity.
13. Number of parties.
14. Intent of parties.
15. Necessity of assent.
16. Offer and acceptance in general.
- 16.5. Options; rights of first refusal.

I. REQUISITES AND VALIDITY.(Cont'd)

17. Request or advertisement for proposals.
18. Making and communication of offer.
19. Revocation or withdrawal of offer.
20. Lapse of offer.
21. Rejection of offer.
22. Acceptance of offer and communication thereof.
 - (1). In general.
 - (2). Acceptance shown by signature.
 - (3). Necessity of communicating acceptance.
23. Qualified or conditional acceptance of offer.
24. Acceptance varying from offer.
25. Agreement to make contract in future; negotiations in general.

See also ¶32.
26. Contracts by correspondence.
27. Implied agreements.
28. Evidence of agreement.
 - (.5). In general.
 - (1). Presumptions and burden of proof.
 - (2). Admissibility.
 - (3). Weight and sufficiency.
29. Questions for jury.

(C) FORMAL REQUISITES.

30. Form as element of contract.
31. Necessity of writing in general.
32. Agreements to be reduced to writing.
33. Form and contents of instrument.
34. Execution.
35. Signature.
36. Seal.
37. Attestation.
38. Affixing revenue stamps.
39. Incomplete instruments.
40. Several instruments.
41. Confirmation or ratification of defective instrument.
42. Delivery.
43. Acceptance.
44. Filing or recording.
45. Evidence.
46. Questions for jury.

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(D) CONSIDERATION.

47. Necessity in general.
48. Contracts under seal.
49. Nature and elements.
50. — In general.
51. — Benefit to promisor.
52. — Detriment to promisee.
53. Adequacy.
54. Sufficiency in general.
 - (1). In general.
 - (2). Withholding competition.
 - (3). Surrender or payment of doubtful or disputed claim.
55. Mutual promises.
56. — In general.
57. — Mutuality.
58. — Contingent or conditional promises.
59. — Options and refusals.
60. Personal rights and relations.
61. Services.
62. Property and rights therein in general.
 - (1). In general.
 - (2). Rights in public lands.
 - (3). Property and rights therein of married women.
63. Money, investments, and securities.
64. Loans and advances.
65. Rights under contracts.
 - (1). In general.
 - (2). Consideration for subsidiary provision of contract.
 - (3). Release or transfer of interest in contract or claim.
 - (4). Repayment of amount received on contract.
- 65.5. Covenants not to compete.
66. Assumption of liability.
67. Pre-existing liability.
68. Compromise.
69. Arbitration or submission of controversy.
70. Forbearance.
71. — In general.
 - (1). In general.
 - (2). Extension of time of payment.
 - (3). Forbearance to sue or defend in general.
 - (4). Forbearance to contest will.
 - (5). Forbearance to foreclose mortgage.

I. REQUISITES AND VALIDITY.(Cont'd)

- (6). Dismissal or continuance of suit.
- (7). Forbearance to enforce judgment.
- (8). Refraining from bidding at sale.
72. — Existence or validity of right or remedy.
73. — Agreement to forbear.
74. Benefit to third person.
75. Performance of legal obligation.
 - (1). In general.
 - (2). Contractual obligations.
 - (3). Performance of official duty.
76. Moral obligation.
77. Natural affection.
78. Executed consideration.
79. Past consideration.
80. Impossible consideration.
81. Unenforceable consideration.
82. Statement of consideration.
83. Failure of consideration.
84. Effect of want or failure of consideration.
85. — In general.
86. — Partial want, or failure.
87. Evidence as to consideration or failure thereof.
- 87.1. — In general.
88. — Presumptions and burden of proof.
89. — Admissibility.
90. — Weight and sufficiency.
91. Questions for jury.

(E) VALIDITY OF ASSENT.

92. Physical or mental condition of party.
93. Mistake.
 - (1). In general.
 - (2). Signing in ignorance of contents in general.
 - (3). Signing by illiterate persons.
 - (4). Mistake of law.
 - (5). Mutual mistake.
94. Fraud and misrepresentation.
 - (1). In general.
 - (2). Materiality of representation.
 - (3). Intent to deceive.
 - (4). Representations as to contents of writing.
 - (5). Reliance on representation.
 - (6). Representations as to future events.

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I. REQUISITES AND VALIDITY.(Cont'd)

- (7). Representations of opinion or law.
- (8). Suppression of truth.
- 95. Duress.
 - (1). In general.
 - (2). Duress of goods.
 - (3). Threats in general.
 - (4). Suits and threats to sue.
 - (5). Criminal prosecution or threats thereof.
- 96. Undue influence.
- 97. Estoppel and ratification.
 - (1). In general.
 - (2). What constitutes ratification.
- 98. Effect of invalidity.
- 99. Evidence.
 - (5). In general.
 - (1). Presumptions and burden of proof.
 - (2). Admissibility.
 - (3). Weight and sufficiency.
- 100. Questions for jury.

(F) LEGALITY OF OBJECT AND OF CONSIDERATION.

- 101. What law governs.
 - (1). In general.
 - (2). Contracts immoral and against public policy.
- 102. Intent of parties.
- 103. Contravention of law in general.
- 104. Violation of statute.
- 105. — In general.
- 106. — Effect of prohibition without penalty.
- 107. — Effect of imposition of penalty.
- 108. Public policy in general.
 - (1). In general.
 - (2). Particular contracts.
- 109. Commission of civil injury.
- 110. Infringement of personal rights.
- 112. Immorality.
- 113. Inducing fraud or breach of trust.
 - (1). In general.
 - (2). Agreements in fraud of creditors.
 - (3). Breach of trust.
 - (4). Inducing breach of contract.
 - (5). Affecting administration of trust.
- 114. Exemption from liability.

I. REQUISITES AND VALIDITY.(Cont'd)

- 115. Restraint of trade or competition in trade.
- 116. — In general.
 - (1). In general.
 - (2). Restriction necessary for protection.
 - (3). Combinations and agreements to control prices and prevent competition in general.
 - (4). Contracts for purchase of entire output.
 - (5). Grant of exclusive privileges.
 - (6). Exclusive agencies.
 - (7). Use and sale of patented inventions.
- 117. — General or partial restraint.
 - (5). In general.
 - (1). Nature of business to which contract relates.
 - (2). Limitations as to time and place in general.
 - (3). Extent of territory embraced in general.
 - (4). Entire state or larger territory.
 - (5). Particular cities or towns and small districts.
 - (6). Particular premises.
 - (7). Restrictions unlimited as to place.
 - (8). Restrictions unlimited or indefinite as to time.
 - (9). Restrictions unlimited as to place and time.
- 118. — Preventing disclosure of trade secrets.
- 119. Prevention of competition in bids or proposals.
- 120. Procuring or making fictitious bids or proposals.
- 121. Control of corporation.
- 122. Prohibited traffic or transactions.
- 123. Injury to public service in general.
 - (1). In general.
 - (2). Contracts with railroad companies.
- 124. Affecting election or appointment to office.
- 125. Affecting emoluments of office.
- 126. Influencing legislation.

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I. REQUISITES AND VALIDITY.(Cont'd)

- 127. Ousting jurisdiction or limiting powers of court.
 - (1). In general.
 - (2). Agreement to refer or arbitrate disputes in general.
 - (4). Agreement as to place of bringing suit; forum selection clauses.
Agreements as to choice of law, see §129(1).
- 128. Compounding offenses.
 - (1). In general.
 - (2). Guilt or innocence of accused.
 - (3). Offenses that may be compounded.
 - (4). Compensation for loss or civil liability.
- 129. Obstructing or perverting administration of justice.
 - (.5). In general.
 - (1). Agreements relating to actions and other proceedings in general.
Includes agreements as to choice of law. Forum selection clauses, see §127(4).
 - (2). Contracts with witnesses.
 - (3). Procuring or suppressing evidence and prosecuting action.
 - (4). Agreement not to sue or to withdraw from suit.
 - (5). Agreement not to plead statute of limitations.
- 130. Prevention of competition at judicial sale.
- 131. Influencing action of administrative officer.
- 132. Prevention of competition for public work, franchises, or property.
- 133. Aid to public enemy.
- 134. Ratification.
- 135. Effect of illegality.
- 136. — In general.
- 137. — Partial illegality.
 - (1). In general.
 - (2). Contravention of law in general and violation of statutes.
 - (3). Against public policy in general.
 - (4). In restraint of trade.
- 138. — Relief of parties.
 - (.5). In general.
 - (1). Enforcement of contract in general.

I. REQUISITES AND VALIDITY.(Cont'd)

- (2). Executed contracts in general.
- (3). Recovery of money paid or property transferred.
- (4). Estoppel to urge illegality.
- (5). Account and division of proceeds.
- (6). Necessity of raising objection.
- (7). Illegality as defense to third person.
- 139. — Parties not in pari delicto.
- 140. — Further or subsequent agreement.
- 141. Evidence.
 - (.5). In general.
 - (1). Presumptions and burden of proof.
 - (2). Admissibility.
 - (3). Weight and sufficiency.
- 142. Questions for jury.

II. CONSTRUCTION AND OPERATION.

(A) GENERAL RULES OF CONSTRUCTION.

- 143. Application to contracts in general.
 - (1). In general.
 - (2). Existence of ambiguity.
 - (3). Rewriting, remaking, or revising contract.
 - (4). Subject, object, or purpose as affecting construction.
- 143.5. Construction as a whole.
- 144. What law governs.
- 145. Place of making contract.
- 146. Date or time of making contract.
- 147. Intention of parties.
 - (1). In general.
 - (2). Language of contract.
 - (3). Construing whole contract together.
- 148. Preliminary negotiations and agreements.
- 149. Oral contracts.
- 150. Written contracts in general.
- 151. Language of instrument.
- 152. — In general.
- 153. — Construction to give validity and effect to contract.
- 154. — Reasonableness of construction.
- 155. — Construction against party using words.

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II. CONSTRUCTION AND OPERATION.(Cont'd)

- 156. — General and specific words and clauses.
- 157. — Mistakes in writing, grammar, or spelling.
- 158. — Punctuation.
- 159. — Particular words and phrases.
- 160. Recitals.
- 161. Separate clauses.
- 162. Conflicting clauses in general.
- 163. Writing and printing.
- 164. Construing instruments together.
- 165. Oral agreements collateral to written contracts.
- 166. Matters annexed or referred to as part of contract.
- 167. Existing law as part of contract.
- 168. Terms implied as part of contract.
- 169. Extrinsic circumstances.
- 170. Construction by parties.
 - (1). In general.
 - (2). Specific acts.
- 171. Entire or severable contracts.
 - (1). In general.
 - (2). Services.
 - (3). Building and other works.
- 172. Alternative stipulations and options.
- 173. Dependent or independent stipulations.
- 174. Exceptions and provisos.
- 175. Evidence to aid construction.
 - (5). In general.
 - (1). Presumptions and burden of proof.
 - (2). Admissibility.
 - (3). Weight and sufficiency.
- 176. Questions for jury.
 - (1). In general.
 - (2). Ambiguity in general.
 - (3). Extrinsic facts.
 - (4). Technical terms.
 - (5). Particular words or terms.
 - (6). Contracts by correspondence.
 - (7). Oral contracts and contracts partly oral.
 - (8). Parties.
 - (9). Subject-matter.
 - (10). Time.
 - (11). Compensation.

(B) PARTIES.

- 177. Scope of contractual relation in general.
- 178. Designation.
- 179. Particular capacity.
- 180. Relation between parties of different parts.
- 181. Joint, several, or joint and several contracts.
- 181.1. — In general.
- 182. — Joint contracts and survivorship.
 - (1). In general.
 - (2). Survivorship.
- 183. — Several contracts.
- 184. — Joint and several contracts.
- 185. Rights acquired by third persons.
- 185.1. — In general.
- 186. — Privity of contract in general.
 - (1). In general.
 - (2). Building and road construction contracts.
 - (3). Successors in interest.
 - (4). Persons injured by nonperformance.
- 187. — Agreement for benefit of third person.
Sales of goods, see SALES IX(F).
 - (1). In general.
 - (2). Contract to pay money to a third person.
 - (3). Contract to pay another's debt in general.
 - (4). Contract by grantee to pay debt of grantor to third person.
 - (5). Acceptance by third person.
- 188. Duties and liabilities of third persons.
- 188.5. Warranties, rights and liabilities of third persons.
Rights of third-party beneficiaries, see §187. Sales of goods, see SALES IX(F).
 - (1). In general.
 - (2). Financiers; brokers.
 - (3). Successors in interest; subsequent buyers.

(C) SUBJECT-MATTER.

- 189. Scope and extent of obligation.
- 189.5. Exculpatory contracts.
- 190. Services in general.
- 191. Board, lodging, and support.
- 192. Property and rights therein in general.

95. CONTRACTS

II. CONSTRUCTION AND OPERATION.(Cont'd)

- 193. Money, investments, and securities.
- 194. Loans and advances.
- 195. Improvement of real property in general.
- 196. Architects, engineers, and surveyors.
- 197. Buildings and other works.
- 198. — In general.
 - (1). In general.
 - (2). Construction or repair of buildings.
 - (3). Construction of railroads.
 - (4). Construction of dam.
 - (5). Excavation contracts.
 - (6). Digging wells.
- 199. — Plans or drawings and specifications.
 - (1). In general.
 - (2). Extra work.
- 200. Agriculture.
- 201. Manufactures.
- 202. Trade and business.
 - (1). In general.
 - (2). Restriction of competition.
- 203. Printing and publishing.
- 204. Advertising.
- 205. Warranties.
 - Sales of goods, see SALES IX. Leases or bailment of personalty, see BAILMENT §10. Automobile rental by agencies, see AUTOMOBILES §389.*
 - 205.5. — In general.
 - 205.10. — Express warranties.
 - 205.15. — Implied warranties.
 - (1). In general.
 - (2). Services.
 - (3). Fitness for purpose; merchantability.
 - (4). Workmanship and workmanlike performance.
 - (5). Plans and specifications.
 - 205.20. — Reliance.
 - 205.25. — Professional persons; architects and engineers.
 - Excludes attorneys, see ATTORNEY AND CLIENT §107, and health care professionals, see HEALTH §625.*
 - 205.30. — Exclusion or limitation by contract, express warranty, or refusal to warrant.
 - 205.35. — Sale of dwellings; habitability.
 - Condominiums and other common interest communities, see COMMON INTEREST COMMUNITIES §136.*

II. CONSTRUCTION AND OPERATION.(Cont'd)

- (1). In general.
 - (2). New buildings; sales by builders and commercial activity.
 - (4). Exclusion or limitation by contract, express warranty or refusal to warrant.
 - 205.40. — Scope; performance or breach.
 - 205.45. — Notice of breach.
 - 206. Legal remedies and proceedings.
- (D) PLACE AND TIME.**
- 207. Stipulations as to place in general.
 - 208. Place of performance.
 - 209. Place of payment of compensation.
 - 210. Stipulations as to time in general.
 - 211. Time as of the essence of the contract.
 - 212. Reasonable time.
 - (1). In general.
 - (2). Time for performance where no time is specified.
 - 213. Time of performance.
 - (1). In general.
 - (2). Construction contracts.
 - 214. Time of payment of compensation.
 - 215. Duration of contract in general.
 - (1). In general.
 - (2). What constitutes termination.
 - 216. Continuing contracts.
 - 217. Option to renew or terminate contract.

(E) CONDITIONS.

- 218. Nature and scope in general.
- 219. Express conditions.
- 220. Implied conditions.
- 221. Conditions precedent in general.
 - (1). In general.
 - (2). What are conditions precedent in general.
 - (3). Conditions precedent to payment of money or price.
- 222. Suspensory conditions.
- 225. Concurrent conditions.
- 226. Conditions subsequent.
- 227. Waiver.

(F) COMPENSATION.

- 228. Right to compensation in general.
- 229. Rate or amount in general.

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II. CONSTRUCTION AND OPERATION.(Cont'd)

- (1). In general.
- (2). Percentage contracts.
- (3). Compensation of architects.
- (4). Contracts for board.
- 230. Reasonable compensation.
- 231. Contracts for buildings and other works.
 - (1). In general.
 - (2). Excavation and drainage contracts.
- 232. Alterations and extra work.
 - (.5). In general.
 - (1). What constitutes extra work or materials in general.
 - (2). Buildings.
 - (3). Authority to do extra work or furnish materials.
 - (4). Necessity that authority be in writing, and waiver of requirement.
 - (5). Necessity for notice of claim and delay in making claim.
 - (6). Compensation for extra work done by others.
 - (7). Amount or rate.
- 233. Reimbursement of expenditures.
- 234. Deductions and offsets.
- 235. Mode of making compensation.

III. MODIFICATION AND MERGER.

- 236. Contracts subject to modification.
- 237. Consideration for modification.
 - (.5). In general.
 - (1). Necessity.
 - (2). Sufficiency.
- 238. Written contracts.
 - (1). In general.
 - (2). Parol modification.
 - (3). Ratification of parol modification.
- 239. Contracts under seal.
- 240. Modification as to parties.
- 241. Alteration or addition of terms.
- 242. Extension of time.
- 243. Modification as to conditions.
- 244. Change of compensation.
- 245. Merger in subsequent contract.
 - (1). In general.
 - (2). Subsequent contract of higher nature.

III. MODIFICATION AND MERGER.(Cont'd)

- (3). Effect of subsequent invalid contract.
 - 246. Operation and effect.
 - 247. Evidence.
 - 248. Questions for jury.
- ### IV. RESCISSION AND ABANDONMENT.
- 249. Contracts subject to rescission.
 - 250. Option to rescind.
 - 251. Agreement to rescind.
 - 252. — In general.
 - 253. — Assent of parties.
 - 254. — Formal requisites.
 - 255. — Consideration.
 - 256. Abandonment of rights.
 - 257. Grounds for rescission by party.
 - 258. — In general.
 - 259. — Invalidity of contract.
 - 260. — Failure of consideration.
 - 261. — Failure of performance or breach.
 - (1). In general.
 - (2). What breach will authorize rescission in general.
 - (3). Failure to pay.
 - (4). Partial breach.
 - (5). Rendering performance impossible.
 - (6). Repudiation or rescission by other party.
 - (7). Delay.
 - 262. Estoppel or waiver.
 - 263. Conditions precedent to rescission.
 - 264. — In general.
 - 265. — Restoration of former status of parties.
 - 266. — Restoration of consideration or benefit.
 - (1). In general.
 - (2). Contracts secured by fraud.
 - 267. Defenses or objections to rescission.
 - 268. Persons entitled to rescission.
 - 269. Persons as against whom contract may be rescinded.
 - 270. Time for rescission and laches.
 - (1). In general.
 - (2). Rescission for invalidity of assent.
 - (3). Questions for jury.
 - 271. Election to rescind and notice.

95. CONTRACTS

IV. RESCISSION AND ABANDONMENT.(Cont'd)

- 272. Acts constituting rescission.
- 273. Partial rescission.
- 274. Operation and effect.

V. PERFORMANCE OR BREACH.

- 275. Obligation to perform in general.
- 276. What law governs.
- 277. Demand of performance.
 - (.5). In general.
 - (1). Necessity.
 - (2). Sufficiency.
- 278. Performance of conditions.
 - (.5). In general.
 - (1). Necessity of performance.
 - (2). Sufficiency of performance.
- 279. Tender of performance.
 - (.5). In general.
 - (1). Necessity.
 - (2). Sufficiency of tender.
- 280. Sufficiency of performance in general.
 - (1). In general.
 - (2). Performance by party through third person.
 - (3). Building contracts in general.
 - (4). Performance by architect.
 - (5). Well and sewer contracts.
- 281. Tests of performance in general.
- 282. Satisfaction of party.
- 283. Approval or decision of architects, engineers; or others.
Arbitrators' decisions, see ALTERNATIVE DISPUTE RESOLUTION.
- 284. — In general.
 - (1). In general.
 - (1.5). Power of architect to modify or alter terms of contract.
 - (2). Condition precedent to recovery in general.
 - (3). Condition precedent to recovery on building contracts.
 - (4). Conclusiveness and effect of decision in general.
- 285. — Determination of disputes.
 - (1). In general.
 - (2). What disputes are to be submitted.

V. PERFORMANCE OR BREACH.(Cont'd)

- (3). Persons to whom disputes should be referred and their qualifications.
- 286. — Acceptance or approval of work.
- 287. — Certificates in general.
 - (1). In general.
 - (2). Conclusiveness and effect of architect's certificate.
- 288. — Certificates as to progress.
- 289. — Withholding approval or certificate.
- 290. — Estoppel or waiver.
- 291. — Mistake.
- 292. — Fraud.
- 293. Substantial performance.
- 294. — In general.
- 295. — Buildings and other works.
 - (1). In general.
 - (2). Railroad construction contracts.
 - (3). Lighting, heating and plumbing contracts.
- 296. Deviations and alterations.
- 297. Partial performance.
- 298. Delay in performance.
- 299. — In general.
 - (1). In general.
 - (2). Right of contractor to recover on account of delay.
- 300. — Excuses.
 - (1). In general.
 - (2). Delay caused by extra work.
 - (3). Delay caused by fault of other party.
 - (4). Delay caused by other contractors or workers in general.
 - (5). Delay caused by strike.
- 301. — Effect.
- 302. Defects in performance.
- 303. Excuses for nonperformance or defects.
 - (1). In general.
 - (2). Operation of law.
 - (3). Act of God.
 - (4). Performance prevented by other party or third person.
 - (5). Contracts for buildings and other works.
- 304. Acceptance of performance in general.
 - (.5). In general.

95. CONTRACTS

V. PERFORMANCE OR BREACH.(Cont'd)

- (1). Necessity of acceptance.
- (2). What constitutes acceptance.
- 305. Waiver of defects and objections.
 - (1). In general.
 - (2). Use of building or taking possession.
 - (3). Payment or acceptance of payment.
- 306. Completion by other party.
 - (.5). In general.
 - (1). Right or duty to complete on default of other party.
 - (2). Right of party failing to perform or his creditors.
 - (3). Right of party completing contract.
 - (4). Certificate as to failure to perform and notice to contractor.
- 307. Property in materials.
- 308. Payment of compensation.
- 309. Discharge by impossibility of performance.
 - (1). In general.
 - (2). Destruction of subject-matter.
- 310. Discharge by insolvency or bankruptcy of party.
- 311. Discharge by death of party.
- 312. Acts or omissions constituting breach in general.
 - (1). In general.
 - (2). Making similar contracts with others.
 - (3). Failure to make payments.
 - (4). Contract not to engage in or injure business carried on by another.
 - (5). Warranties.
- 313. Renunciation.
 - (1). In general.
 - (2). Acts constituting renunciation and liabilities therefor.
- 314. Breach by making performance impossible.
- 315. Breach by failure of performance.
- 316. Waiver of breach.
 - (1). In general.
 - (2). Failure to take possession and complete contract.

V. PERFORMANCE OR BREACH.(Cont'd)

- (3). Waiver of one breach by alleging another.
- (4). Failure to object during performance.
- (5). Demand of performance.
- (6). Effect of waiver.
- 317. Effect of breach in general.
- 318. Discharge of contract by breach.
- 319. Rights and liabilities on partial performance.
 - (.5). In general.
 - (1). Right to recover for partial performance in general.
 - (2). Excuse for failure to fully perform.
- 320. Rights and liabilities on defective performance.
- 321. Rights and liabilities on breach.
 - (1). In general.
 - (2). Where no damages result from breach.
 - (3). Right to procure material elsewhere.
 - (4). Recovery of payments or discounts.
 - (5). Contracts to loan money and execute note.
- 322. Evidence.
 - (.5). In general.
 - (1). Presumptions and burden of proof.
 - (2). Admissibility.
 - (3). Weight and sufficiency in general.
 - (4). Sufficiency of evidence as to building contracts.
 - (5). Sufficiency of evidence as to compensation.
- 323. Questions for jury.
 - (1). In general.
 - (2). Uncontroverted evidence.
 - (3). Building contracts.

VI. ACTIONS FOR BREACH.

- 324. Nature and form of remedy.
 - (1). In general.
 - (2). Action on contract or for breach.
- 325. What law governs.
- 326. Grounds of action.
- 327. Conditions precedent.

95. CONTRACTS

VI. ACTIONS FOR BREACH.(Cont'd)

- (1). In general.
- (2). To enforcing agreement to pay debt owing to third person.
- (3). Statement of amount due for labor and materials.
- (4). Release of claims.
- 328. Defenses:
 - (1). In general.
 - (2). No damages resulting from breach.
 - (3). Waiver of defense.
 - (4). Defenses in actions on contracts for benefit of third persons.
 - (5). Right to change ground of defense.
- 329. Time to sue and limitations.
- 330. Parties.
 - (1). In general.
 - (2). Plaintiffs in general.
 - (3). Name in which action must be brought.
 - (4). Defendants.
- 331. Pleading.
- 331.1. — In general.
- 332. — Declaration, complaint, or petition in general.
 - (1). In general.
 - (2). Sufficiency of statement of cause of action in general.
 - (3). Fulfillment of conditions precedent.
 - (4). Allegation as to certificate or decision of architect or others.
- 333. — Allegation or statement of contract or promise.
 - (1). In general.
 - (2). Allegation as to whether contract is in writing.
 - (3). Execution.
 - (4). Intention of parties.
 - (5). Pleading contract or specifications.
 - (6). Modification of contract.
 - (7). Parties to contract.
 - (8). Validity of contract.
 - (9). Acceptance of contract.
- 334. — Consideration.
- 335. — Performance by plaintiff.
 - (5). In general.

VI. ACTIONS FOR BREACH.(Cont'd)

- (1). Necessity of alleging performance.
- (2). Sufficiency of allegations.
- 336. — Notice and demand.
- 337. — Breach.
 - (1). In general.
 - (2). Sufficiency of allegations to show breach.
 - (3). Allegation of damage.
 - (4). Manner of pleading several breaches.
 - (5). Allegation as to time for performance by defendant.
- 338. — Plea, answer, or affidavit of defense in general.
 - (1). In general.
 - (2). Rescission or modification.
 - (3). Necessity for affidavit of defense.
 - (4). Sufficiency of affidavit of defense.
- 339. — Denials and admissions.
- 340. — Want of consideration.
- 341. — Failure of consideration.
- 342. — Invalidity of assent and illegality.
- 343. — Nonperformance by plaintiff.
- 344. — Performance by defendant.
- 345. — Replication or reply and subsequent pleadings.
- 346. — Issues, proof, and variance.
 - (1). In general.
 - (2). Matters to be proved.
 - (3). Evidence admissible under pleadings in general.
 - (4). Admissibility of contract sued on and other contracts or evidence thereof.
 - (4.5). Admissibility of proof of quantum meruit.
 - (5). Admissibility of proof of waiver or modification.
 - (6). Admissibility of proof of intention of parties.
 - (7). Admissibility of proof of fraud or illegality.
 - (8). Admissibility of proof as to performance or breach in general.
 - (9). Evidence admissible under general denial.
 - (10). Variance as to date and terms of contract in general.

96. CONTRIBUTION

VI. ACTIONS FOR BREACH.(Cont'd)

- (11). Variance as to performance or breach.
- (12). Declaring on express contract and recovering on quantum meruit.
- (13). Declaring on unconditional contract and quantum meruit and recovering on conditional contract.
- (14). Variance as to demand.
- (15). Variance as to parties.
- (16). Variance as to form of contract.
- 347. Evidence.
 - 347.1. — In general.
- 348. — Presumptions and burden of proof.
- 349. — Admissibility.
 - (1). In general.
 - (2). Evidence as to terms of contract.
 - (3). Admissibility of contract sued on or other contracts.
 - (4). Books, papers, and reports, and evidence relating thereto.
 - (5). Letters and telegrams, or evidence as to contents thereof.
 - (6). Evidence of ability, willingness, or attempt to perform contract.
 - (7). Evidence of value or price.
- 350. — Weight and sufficiency.
 - (1). In general.
 - (2). Evidence of terms of contract.
 - (3). Evidence of rescission.
- 351. Trial.
 - 351.1. — In general.
- 352. — Questions for jury.
 - (1). In general.
 - (2). Sufficiency of evidence to justify submission to jury in general.
 - (3). Nature and terms of contract.
 - (4). Reasonableness of contract or condition.
 - (5). Amount of recovery.
 - (6). Rescission or termination.
- 353. — Instructions.
 - (1). In general.
 - (2). As to making or existence of contract.
 - (3). As to parties.
 - (4). As to consideration.
 - (5). As to validity or legality.

VI. ACTIONS FOR BREACH.(Cont'd)

- (6). As to construction.
- (7). As to modification or rescission and abandonment.
- (8). As to performance or breach in general.
- (9). As to benefit derived from performance.
- (10). As to amount of recovery or other relief.
- (11). As to extra work.
- 354. — Verdict and findings.
- 355. Judgment.

96. CONTRIBUTION

SUBJECTS INCLUDED

Implied obligation to reimburse one who has discharged an obligation or suffered a loss for which another or others are liable with him, to the extent of the proportionate share of such other or others

Rights, liabilities and remedies of the parties in general

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Contractual obligation to reimburse another, in full or in part, see INDEMNITY

Environmental response and cleanup statutes, contribution under, see ENVIRONMENTAL LAW

Implied contract, or obligation imposed by law, to reimburse another in full, see INDEMNITY

Mary Carter and high-low agreements, effect of, see COMPROMISE AND SETTLEMENT

Negligence of joint tortfeasors creating liability for contribution, particular acts constituting, see AUTOMOBILES, CARRIERS and other specific topics

Particular persons, occupations and transactions involving special rules as to contribution, see BILLS AND NOTES, INSURANCE, WORKERS' COMPENSATION and other specific topics—

96. CONTRIBUTION

Associations and unincorporated companies, members of, see ASSOCIATIONS, CORPORATIONS AND BUSINESS ORGANIZATIONS XV

Corporations, members of, see CORPORATIONS AND BUSINESS ORGANIZATIONS and other specific topics

Co-sureties, see PRINCIPAL AND SURETY

Co-tenants, see JOINT TENANCY, TENANCY IN COMMON

Joint contractors, see JOINT VENTURES

Partners, see PARTNERSHIP

Party walls, owners of, see PARTY WALLS

Secondary liability, persons under, see GUARANTY, PRINCIPAL AND SURETY

1. Nature and grounds of obligation.
2. Common interest or liability.
3. — In general.
4. — Joint debtors.
5. — Joint wrongdoers.
 - (1). In general.
 - (2). Effect of statute.
 - (3). Absence of intent or moral turpitude; negligence.
 - (4). Persons not in pari delicto; active and passive wrongdoers.
 - (5). Common liability.
 - (6). Particular torts or wrongdoers.
 - (6.1). — In general.
 - (7). — Automobile cases.
6. Payment or discharge of common liability.
7. Measure of contribution.
8. Defenses.
9. Actions.
 - (.5). In general.
 - (1). Nature of action.
 - (2). Notice.
 - (3). Time for bringing action.
 - (4). Parties.
 - (5). Pleading.
 - (6). Evidence.
 - (7). Trial.
 - (8). Judgment.

96H. CONTROLLED SUBSTANCES

SUBJECTS INCLUDED

Regulation of the manufacture, possession, distribution, importation, etc., of narcotics, other drugs and substances subject to abuse and addiction, counterfeits of such drugs and drug paraphernalia

Criminal liability and prosecution for violations of such regulations

Searches, seizures, and forfeitures relating to controlled substances

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Approval for manufacture and sale, and regulation generally of drugs and medical devices, see HEALTH

Arrests for controlled substance offenses, see ARREST

Commitment and treatment of addicts, see CHEMICAL DEPENDENTS

Conspiracies to commit controlled substance offenses, see CONSPIRACY

Insecticides, fungicides, herbicides, and rodenticides, see AGRICULTURE and ENVIRONMENTAL LAW

Offenses and prosecutions under tax laws, see INTERNAL REVENUE and TAXATION

Regulation and liabilities of health professionals, including pharmacists and drug testing labs, see HEALTH

Searches and seizures arising out of traffic stops, see AUTOMOBILES

I. IN GENERAL, ¶¶1-19.

II. OFFENSES, ¶¶20-59.

III. PROSECUTIONS, ¶¶60-100.

IV. SEARCHES AND SEIZURES, ¶¶101-159.

(A) IN GENERAL, ¶¶101-102.

(B) SEARCH WITHOUT WARRANT, ¶¶103-139.

(C) SEARCH UNDER WARRANT, ¶¶140-159.

V. FORFEITURES, ¶¶160-190.

I. IN GENERAL.

1. Nature and power to regulate.
2. — In general.
3. — Preemption.
4. Statutes and other regulations.

96H. CONTROLLED SUBSTANCES

I. IN GENERAL.(Cont'd)

5. — In general.
6. — Validity.
7. — Construction and operation in general.
8. — Retroactivity.
9. Substances regulated; definitions and schedules.
10. Prescriptions and records.
11. Registration of offenders.
12. Penalties for violations.
13. Civil liability.

II. OFFENSES.

20. In general.
21. Miscellaneous offenses.
22. Manufacture.
23. Transportation.
24. Possession.
25. — In general.
26. — Elements in general.
27. — Knowledge and intent.
28. — Constructive possession.
29. — Substance and quantity possessed.
30. — Joint or exclusive possession.
31. Possession for sale or distribution.
32. Sale, distribution, delivery, transfer or trafficking.
33. — In general.
34. — Elements in general.
35. — Knowledge and intent.
36. Purchase or solicitation.
37. Forgery, fraud or falsehood, obtaining by.
38. Use, being under the influence or addiction.
39. Importation.
40. Continuing criminal enterprise; drug organizations.
41. Registration offenses.
42. Paraphernalia and instrumentalities.
43. Counterfeit or imitation substances.
44. Persons liable.
45. — In general.
46. — Aiders and abettors.
47. — Agents; agency defense.
48. Defenses.
49. — In general.
50. — Impossibility.
51. — Medical necessity or assistance.

III. PROSECUTIONS.

60. In general.
61. Indictment, information or complaint.
62. — In general.
63. — Possessory offenses.
64. — Sale, distribution, delivery, transfer or trafficking.
65. — Substance and quantity involved.
66. — Designation and description of purchaser or other party.
67. — Issues, proof and variance.
68. Presumptions and burden of proof.
69. Admissibility of evidence.
70. Weight and sufficiency of evidence.
71. — In general.
72. — Credibility and corroboration.
73. — Circumstantial evidence in general.
74. — Substance and quantity in general.
75. — Knowledge and intent in general.
76. — Miscellaneous offenses.
77. — Manufacture.
78. — Transportation.
79. — Possession in general.
80. — Possessory offenses.
81. — Possession for sale or distribution.
82. — Sale, distribution, delivery, transfer or trafficking.
83. — Purchase or solicitation.
84. — Forgery, fraud or falsehood, obtaining by.
85. — Use, being under the influence or addiction.
86. — Importation.
87. — Continuing criminal enterprise; drug organizations.
88. — Registration offenses.
89. — Paraphernalia and instrumentalities.
90. — Counterfeit or imitation substances.
91. Questions for jury.
92. — In general.
93. — Possessory offenses.
94. — Sale, distribution, delivery, transfer or trafficking.
95. Instructions.
96. — In general.
97. — Possessory offenses.
98. — Sale, distribution, delivery, transfer or trafficking.
99. Verdict.

96H. CONTROLLED SUBSTANCES

III. PROSECUTIONS.(Cont'd)

- 100. Sentence and punishment.
 - (1). In general.
 - (2). Extent of punishment.
 - (3). Exceptions to statutory minimums; "safety valve".
 - (4). — In general.
 - (5). — Criminal history.
 - (6). — Weapons or violence.
 - (7). — Death or serious injury.
 - (8). — Organizers, leaders, managerial role.
 - (9). — Cooperation and disclosure.
 - (10). — Proceedings.

IV. SEARCHES AND SEIZURES.

(A) IN GENERAL.

- 101. In general.
- 102. Statutory provisions.

(B) SEARCH WITHOUT WARRANT.

- 103. In general.
- 104. Probable or reasonable cause.
- 105. Exigent circumstances.
- 106. Plain view in general.
- 107. Carriers.
- 108. — In general.
- 109. — Electronic devices in packages.
- 110. Motor vehicle searches.
- 111. — In general.
- 112. — Probable or reasonable cause.
- 113. — Informants.
- 114. — Exigent circumstances.
- 115. — Plain view.
- 116. — Scope of search; compartments and containers.
- 117. — Place and time of search; impoundment and inventory.
- 118. Airplanes and airports.
- 119. Ships, boats and vessels.
- 120. Persons and personal effects, search of.
- 121. — In general.
- 122. — Probable or reasonable cause.
- 123. — Exigent circumstances.
- 124. — Informants.
- 125. — Purses, bags, or suitcases.
- 126. — Strip search; body cavity search.
- 127. Premises, search of.
- 128. — In general.

IV. SEARCHES AND SEIZURES.(Cont'd)

- 129. — Probable or reasonable cause.
- 130. — Exigent circumstances.
- 131. — Plain view.
- 132. — Informants.
- 133. — Scope of search.
- 134. — Open fields; curtilage or yard; growing plants.
- 135. — Hotels and motels.
- 136. — Business premises.
- 137. Odor detection; use of dogs.
- 138. Objects thrown or abandoned.

(C) SEARCH UNDER WARRANT.

- 140. In general.
- 141. Issuance, requisites, and validity of warrant in general.
- 142. — In general.
- 143. — Descriptions, overbreadth.
- 144. Affidavits, complaints, and evidence for issuance of warrants.
- 145. — In general.
- 146. — Probable cause in general.
- 147. — Error or ambiguity; omissions.
- 148. — Informants.
 - (1). In general.
 - (2). Personal knowledge.
 - (3). Reliability; corroboration.
 - (4). Confidential or unnamed informants.
- 149. — Lapse of time; staleness.
- 150. Execution and return of warrants in general.
- 151. — In general.
- 152. — Time for search; day or night.
- 153. — Knock and announce requirement; forcible or emergency entrance.
- 154. — Objects seized; plain view.
- 155. — Luggage and packages; odor and use of dogs.
- 156. Disposition of property.

V. FORFEITURES.

- 160. In general.
- 161. Statutory provisions.
- 162. Nature, purpose, and scope.
- 163. Construction and operation of regulations in general.
- 164. Property subject to forfeiture.

97C. CONVERSION AND CIVIL THEFT

V. FORFEITURES.(Cont'd)

- 165. — In general.
- 166. — Excessiveness and proportionality.
- 167. — Legal fees and funds therefor.
- 168. Grounds.
- 169. — In general.
- 170. — Probable or reasonable cause; substantial connection.
- 171. — Particular cases.
- 172. Defenses.
- 173. — In general.
- 174. — Lack of knowledge or consent.
- 175. Rights of third persons.
- 176. Proceedings.
- 177. — In general.
- 178. — Disposition of property pending forfeiture.
- 179. — Jurisdiction.
- 180. — Standing; parties.
- 181. — Notice and process.
- 182. — Time for proceedings.
- 183. — Pleading.
- 184. — Evidence.
- 185. — Trial or hearing and determination.
- 186. — Review.
- 187. — Costs.
- 188. Operation and effect.
- 189. Post-forfeiture remission or mitigation.
- 190. Postjudgment disposition of property.

97C. CONVERSION AND CIVIL THEFT

SUBJECTS INCLUDED

The wrongful taking, possession or disposition of another's property, and the remedy provided therefor by law

An act or series of acts of willful interference, without authority, with personal property in a manner inconsistent with the rights of the owner or other person entitled to immediate possession, by wrongfully taking, detaining, or disposing of the property

Right of action and defenses, and the nature and extent of liability, for such acts

Proceedings in actions for trover, conversion, and civil theft, including the measure and amount of damages

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Changes in the nature of property as real or personal by means of physically attaching it to or severing it from other property, see PROPERTY ¶5

Changes in the nature of property as real or personal for equitable purposes in the consideration of the law, see EQUITABLE CONVERSION

Crime victim's relief acts, providing recovery of loss following criminal conversion, see CRIMINAL LAW

Criminal conversion, offense of, see EMBEZZLEMENT, LARCENY

Particular relationships and types of property, conversion involving, see ANIMALS, ATTORNEY AND CLIENT, BAILMENT, BROKERS, CARRIERS, LANDLORD AND TENANT, LOGS AND LOGGING, MORTGAGES AND DEEDS OF TRUST, PRINCIPAL AND AGENT, SECURED TRANSACTIONS, SHIPPING, TENANCY IN COMMON, TRUSTS, and other specific topics

Possession of goods, remedies for recovery, see DETINUE, REPLEVIN

I. ACTS CONSTITUTING AND LIABILITY THEREFOR, ¶100-119.

II. ACTIONS, ¶120-251.

(A) RIGHT OF ACTION AND DEFENSES, ¶120-149.

(B) PROCEEDINGS IN GENERAL, ¶150-179.

(C) EVIDENCE, ¶180-199.

(D) DAMAGES, ¶200-229.

(E) TRIAL, ¶230-239.

(F) JUDGMENT, ¶240-249.

(G) COSTS, ¶250-251.

I. ACTS CONSTITUTING AND LIABILITY THEREFOR.

100. In general; nature and elements.

101. What law governs.

102. Preemption.

103. Property subject of conversion or theft.

104. — In general.

97C. CONVERSION AND CIVIL THEFT

I. ACTS CONSTITUTING AND LIABILITY THEREFOR.(Cont'd)

- 105. — Intangible and intellectual property in general.
- 106. — Money and commercial paper; debt.
- 107. Intent.
- 108. Assertion of ownership or control in general.
- 109. Taking of property.
- 110. Detention of property.
- 111. — In general.
- 112. — Possession or control.
- 113. — Withholding of possession.
- 114. — Demand and refusal.
 - (1). In general.
 - (2). As constituting conversion or theft or evidence thereof.
 - (3). As fixing time of conversion or theft.
 - (4). Necessity of demand and refusal.
 - (5). — In general.
 - (6). — Control or possession of property.
 - (7). — Nature of taking of property.
 - (8). — Adverse claim or refusal before demand.
 - (9). — Purchase or sale of property belonging to plaintiff.
 - (10). — Property acquired by trespass, mistake, or fraud.
 - (11). Sufficiency of demand.
 - (12). Compliance or refusal.
- 115. Use or disposition of property.
- 116. Purchase or other taking of property from person other than owner.
- 117. Destruction of or injury to property.

II. ACTIONS.

(A) RIGHT OF ACTION AND DEFENSES.

- 120. In general; nature and scope of remedy.
- 121. Relation to contractual remedies.
- 122. Statutory provisions and remedies.
- 123. Title and right to possession of plaintiff.
- 124. — In general.
- 125. — Special property or qualified interest or right.
- 126. Conditions precedent in general.
- 127. Payment or tender of amount of lien or indebtedness.

II. ACTIONS.(Cont'd)

- 128. Return of consideration for contract rescinded.
- 129. Defenses.
- 130. — In general.
- 131. — Good faith or mistake; good intentions.
- 132. — Consent or ratification.
- 133. — Return of property; payment.
- 134. — Title or right to possession of defendant or third person.
- 135. — Abandonment of property.
- 136. — Waiver and estoppel.
- 137. — Privilege and immunity.
- 138. — Contributory and comparative negligence; assumption of risk.
- 139. — Other legal proceedings.
- 140. Persons entitled to sue.
- 141. Persons liable.

(B) PROCEEDINGS IN GENERAL.

- 150. In general.
- 151. Jurisdiction.
- 152. Venue.
- 153. Time to sue and limitations.
- 154. Parties plaintiff.
- 155. Parties defendant.
- 156. Bonds or other security.
- 157. Declaration, complaint, or petition.
- 158. — In general.
- 159. — Description of property and averment as to value thereof.
- 160. — Allegations as to title to property and right to possession.
- 161. — Allegations of conversion or theft and time thereof.
- 162. — Allegations of demand and refusal.
- 163. — Allegations as to injury or damages.
- 164. Plea or answer and subsequent pleadings.
- 165. Issues, proof, and variance.
- 166. — In general.
- 167. — Matters and allegations which must be proved by plaintiff.
- 168. — Evidence admissible under declaration, complaint, or petition.
- 169. — Evidence and defenses admissible under plea or answer in general.
- 170. — Defenses admissible under general issue.

98. CONVICTS

II. ACTIONS.(Cont'd)

- 171. — Matters which must be pleaded in reply.
- 172. — Variance between allegations and proof.

(C) EVIDENCE.

- 180. In general.
- 181. Presumptions and burden of proof.
- 182. Admissibility in general.
- 183. Title and right to possession.
- 184. Acts constituting conversion or theft.
- 185. Nature and extent of injury; damages.
- 186. Weight and sufficiency.
- 187. — In general.
- 188. — Existence, identity, and description of property involved in suit.
- 189. — Title and right to possession.
- 190. — Conversion or theft.
- 191. — Demand and refusal.
- 192. — Nature and extent of injury and value of property; damages.

(D) DAMAGES.

- 200. In general; grounds and elements of compensatory damages.
- 201. Nominal damages.
- 202. Special property or qualified interest or right of plaintiff.
- 203. Value of property.
- 204. — In general.
- 205. — Measure of damages in general.
- 206. — Place.
- 207. — Time.
- 208. — Specific articles of personal property in general.
- 209. — Timber, crops, or other products of the soil.
- 210. — Property of fluctuating value.
- 211. — Rights of action and evidences of indebtedness.
- 212. — Title deeds and other documents.
- 213. — Increase of value by act or expenditure after conversion or theft.
- 214. Interest on value of property.
- 215. Special damages additional to value of property.
- 216. Aggravation of damages.
- 217. Mitigation of damages.
- 218. — In general.
- 219. — Return of property to plaintiff.

II. ACTIONS.(Cont'd)

- 220. — Appropriation of property or proceeds to use of plaintiff.
- 221. Exemplary damages.
- 222. Amount awarded.
- 223. — In general.
- 224. — Exemplary damages.

(E) TRIAL.

- 230. In general.
- 231. Dismissal or nonsuit before trial.
- 232. Scope of inquiry and powers of court.
- 233. Questions for jury.
- 234. Instructions.
- 235. Verdict and findings.

(F) JUDGMENT.

- 240. In general.
- 241. Effect on title to property of judgment or satisfaction thereof.

(G) COSTS.

- 250. In general.
- 251. Attorney fees.

98. CONVICTS

SUBJECTS INCLUDED

Persons adjudged guilty of crime; status as convict
Disabilities and other consequences resulting from such status
Removal of such disabilities and consequences

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Alien immigrants, exclusion of convicts, see ALIENS, IMMIGRATION, AND CITIZENSHIP
Civil liabilities to persons injured, reparation, and victims' rights, see CRIMINAL LAW
⌘1220
Conviction, see CRIMINAL LAW and topics dealing with specific offenses
Escape as criminal offense, see ESCAPE

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Expungement or correction of conviction or criminal record, see CRIMINAL LAW ¶1226(3.1)

Former conviction as former jeopardy defense, see DOUBLE JEOPARDY

Former conviction as ground for increased punishment for subsequent offense, see SENTENCING AND PUNISHMENT

Incidents of conviction, see CRIMINAL LAW XXVI

Insane or mentally ill convicts, confinement and support, see MENTAL HEALTH

Labor of convicts and disposition of the products thereof, see PRISONS

Pardon, clemency, amnesty, reprieve, and commutation, see PARDON AND PAROLE

Parole, see PARDON AND PAROLE

Prisoner status, disabilities and other consequences resulting from, see PRISONS

Prisons, jails, penitentiaries, and reformatories, establishment and maintenance, see INFANTS ¶3122, PRISONS

Probation, see SENTENCING AND PUNISHMENT IX

Property subject of or connected with crime, rights to, see CRIMINAL LAW ¶1221

Regulation of convicts under sentence of imprisonment, see PRISONS

Sentencing proceedings and punishment imposed, see SENTENCING AND PUNISHMENT

Witnesses, competency and credibility of convicts as, see WITNESSES

20. In general.

21. Status, rights, and disabilities.

22. Restoration of rights; removal of disabilities.

99. COPYRIGHTS AND INTELLECTUAL PROPERTY

SUBJECTS INCLUDED

Nature and incidents of the exclusive rights of an author or other proprietor of a literary

work or similar production to multiply copies thereof, secured by grant of copyright

Nature and incidents of the exclusive right of an author in respect of his intellectual productions, and the use or disposition thereof, independent of statutes conferring copyrights

Exercise, protection and enforcement of rights

Infringements of such rights, and remedies relating thereto

I. COPYRIGHTS, ¶1-100.

(A) NATURE AND SUBJECT MATTER, ¶1-34.

(B) SCOPE, ¶35-39.

(C) ABANDONMENT, ¶40.

(D) OWNERSHIP, ¶41-42.

(E) TRANSFER, ¶43-50.

(F) NOTICE, ¶50.1-50.6.

(G) DEPOSIT, ¶50.10.

(H) REGISTRATION, ¶50.15-50.25.

(I) COPYRIGHT OFFICE, ¶50.30.

(J) INFRINGEMENT, ¶51-100.

1. WHAT CONSTITUTES INFRINGEMENT, ¶51-69.

2. REMEDIES, ¶70-100.

II. INTELLECTUAL PROPERTY, ¶101-109.

I. COPYRIGHTS.

(A) NATURE AND SUBJECT MATTER.

1. Nature of statutory copyright.

2. Constitutional and statutory provisions.

3. Subjects of copyright.

4. — In general.

4.5. — Ideas and concepts in general.

5. — Literary works; writings.

6. — Pictorial, graphic, and sculptural works.

7. — Dramatic works, pantomimes, and choreographic works.

8. — Musical works.

10.1. — Motion pictures and other audiovisual works.

10.2. — Sound recordings.

10.3. — United States government works.

10.4. — Other works.

12. Originality of work; creativity.

(1). In general.

99. COPYRIGHTS AND INTELLECTUAL PROPERTY

I. COPYRIGHTS.(Cont'd)

- (2). Use of common expressions, historical facts, or other material from public domain.
- (3). Compilations and derivative works; copies and reproductions.

- 14. Statutes and law reports.
- 16. Literary or artistic qualities of work.
- 17. Illegal or immoral works.
- 31. Publication.
- 33. Duration.
- 34. International copyright; national origin of work.

(B) SCOPE.

- 35. Scope of exclusive rights; limitations.
- 36. — In general.
- 38. — Distinct portions of work; compilations and derivative works.
- 38.5. — Effect of transfer of particular copy or phonorecords.

(C) ABANDONMENT.

- 40. In general.

(D) OWNERSHIP.

- 41. Ownership.
 - (1). In general.
 - (2). Works made for hire.
 - (3). Joint works; contributions to collective works.
- 41.3. Ownership of copyright as distinct from ownership of material object.

(E) TRANSFER.

- 43. Assignments or transfers.
- 44. — In general.
- 44.5. — Partial assignments.
- 45. — Requisites and validity.
- 46. — Recording.
- 47. — Construction and operation.
- 47.5. Transfer on death.
- 48. Licenses in general.
- 48.1. Compulsory license; copyright royalty tribunal.
- 49. Contracts relating to copyrights.

(F) NOTICE.

- 50.1. Notice on copies.

I. COPYRIGHTS.(Cont'd)

- (1). In general.
- (2). Form and position in general.
- (3). Contribution to collective works.
- (4). Effect of omission, removal or error.

(G) DEPOSIT.

- 50.10. Deposit of copies or phonorecords for Library of Congress.

(H) REGISTRATION.

- 50.15. Registration.
- 50.16. — In general.
- 50.20. — Application.
- 50.25. — Certificate.

(I) COPYRIGHT OFFICE.

- 50.30. Copyright office.

(J) INFRINGEMENT.

1. WHAT CONSTITUTES INFRINGEMENT.

- 51. Nature and elements of injury.
- 52. Intent or purpose.
- 53. Acts constituting infringement.
 - (1). In general.
 - (2). Reproduction in different medium.
- 53.2. Fair use and other permitted uses in general.
- 54. Books or other literary works.
- 55. — In general.
- 56. — Fair use in general.
- 57. — Copying.
- 58. — Extracts and quotations.
- 59. — Compilations, abridgments, digests, or translations.
- 63. — Improvements and additions.
- 64. Pictorial, graphic, and sculptural works.
- 65. Dramatic works, pantomimes, and choreographic works.
- 66. Musical works.
- 67.1. Motion pictures and other audiovisual works.
- 67.2. Sound recordings.
- 67.3. Other works.

99. COPYRIGHTS AND INTELLECTUAL PROPERTY

2. REMEDIES.

- 70. Penalties and actions therefor, and of-fenses and prosecutions therefor.
- 71. Seizure and forfeiture.
- 72. Actions for infringement.
 - 72.1. — In general.
- 73. — Nature of remedy.
- 74. — Grounds of action.
- 75. — Defenses.
 - 75.5. — Conditions precedent; registra-tion.
- 76. — Persons entitled to suc.
- 77. — Persons liable.
- 79. — Jurisdiction and venue.
 - (1). In general.
 - (2). Personal jurisdiction.
 - (3). Venue.
- 80. — Limitations and laches.
See also LIMITATION OF ACTIONS.
- 81. — Parties.
- 81.5. — Process.
- 82. — Pleading.
- 83. — Evidence.
 - (.5). In general.
 - (1). Presumptions and burden of proof.
 - (2). Admissibility.
 - (3). Weight and sufficiency.
 - (3.1). — In general.
 - (3.5). — Certificate as prima facie proof, in general.
 - (4). — Books or other literary works.
 - (5). — Dramatic works.
 - (6). — Musical works.
 - (7). — Other works.
- 84. — Discovery.
- 85. — Preliminary injunction.
- 86. — Permanent relief.
- 87. — Damages and profits.
 - (.5). In general.
 - (1). Recovery in general; actual dam-ages and profits.
 - (2). Elements, measure, and amount.
 - (3). Statutory damages; minimum award.
 - (3.1). — In general.
 - (4). — Amount of recovery; multi-ple infringements.
- 88. — Trial.

I. COPYRIGHTS.(Cont'd)

- 89. — Judgment.
 - (1). In general.
 - (2). Summary judgment.
- 90. Costs.
 - (1). In general.
 - (2). Attorney fees.

II. INTELLECTUAL PROPERTY.

- 101. Nature of property; common law copy-right in general.
- 102. Subject-matter.
- 103. Ownership in general.
- 104. Right to control disposition or use.
- 105. Dedication to public.
- 106. Transfers.
- 107. Contracts.
See also SALES.
- 108. Infringement.
- 109. Remedies.

100. CORONERS

SUBJECTS INCLUDED

Public officers authorized to make judicial inquiry as to the causes and circumstances of sudden or violent deaths

Their appointment, qualification and tenure of office

Rights, powers, duties, acts, proceedings and liabilities of coroners, their deputies and assistants, in general

Inquests and proceedings thereon

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Autopsies and dead bodies in general, see DEAD BODIES

Effect of inquests and findings therein in—
Homicide prosecutions, see HOMICIDE
Insurance cases, see INSURANCE

Election of coroners, see ELECTION LAW

Sheriffs, powers and acts of coroners in performing duties of, see SHERIFFS AND CONSTABLES

101. CORPORATIONS AND BUSINESS ORGANIZATIONS

1. Nature of office.
2. Creation and abolition of office.
3. Appointment, election, eligibility and qualification.
4. Deputies and assistants.
5. Justice of the peace or other officer acting as coroner.
6. Term of office, vacancies, and holding over.
7. Compensation and fees.
8. Powers and duties in general.
9. Inquests.
- 9.1. — In general.
10. — Nature and necessity in general.
11. — Jurisdiction and authority.
12. — Jury.
13. — Witnesses.
14. — Autopsy.
15. — Course and conduct of proceedings in general.
16. — View of body.
17. — Evidence.
18. — Verdict and inquisition.
19. — Arrest of person charged.
20. — Disposition of property found on body.
21. — Costs and expenses.
22. Effect of inquisition.
23. Liabilities for negligence or misconduct.
24. Liabilities on official bonds.
25. Criminal responsibility.

101. CORPORATIONS AND BUSINESS ORGANIZATIONS

SUBJECTS INCLUDED

Bodies corporate in general
Creation, organization, and dissolution
Rights, powers, duties, and liabilities of such bodies, their members and officers, as among themselves and as to others, incident to corporate existence, and legal proceedings for enforcement thereof
Mergers, acquisitions, and reorganizations
Non-profit corporations in general

Unincorporated business organizations in general
Sole proprietorships
Business, trade, and professional associations
Joint stock companies
Business trusts
Limited liability companies

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Associations in general, see ASSOCIATIONS
Joint ventures, see JOINT VENTURES
Limited liability partnerships, see PARTNERSHIP
Municipal and other public corporations, see EDUCATION, MUNICIPAL CORPORATIONS, and other specific topics
Native village corporations, see INDIANS ¶228
Particular businesses or purposes—
 Abstract companies, see ABSTRACTS OF TITLE ¶2
 Banking companies, see FINANCE, BANKING, AND CREDIT IV
 Beneficial associations, see BENEFICIAL ASSOCIATIONS
 Boom or driving companies, see LOGS AND LOGGING ¶13
 Bridge companies, see BRIDGES ¶13
 Building and loan associations, see FINANCE, BANKING, AND CREDIT IV
 Canal companies, see WATER LAW ¶2927
 Cemetery companies, see CEMETERIES ¶5
 Charitable societies, see CHARITIES
 Churches and other bodies formed for religious purposes, see RELIGIOUS SOCIETIES
 Clubs, see CLUBS
 Common lands, proprietors of, see COMMON LANDS ¶6
 Credit unions and cooperative banks, see FINANCE, BANKING, AND CREDIT IV
 Drainage companies, see WATER LAW ¶2733
 Electric companies, see ELECTRICITY ¶3
 Exchanges, see EXCHANGES

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- Ferry companies, see FERRIES ¶6
 - Gas companies, see GAS ¶4
 - Homeowners' associations, condominium associations, cooperative associations, and similar bodies formed in connection with common interest communities, see COMMON INTEREST COMMUNITIES
 - Insurance companies, see INSURANCE IV
 - Irrigation and ditch companies, see WATER LAW XIII(C)3
 - Labor unions, see LABOR AND EMPLOYMENT XII(B)
 - Law firms, see ATTORNEY AND CLIENT ¶30
 - Lodges and fraternal organizations, see BENEFICIAL ASSOCIATIONS
 - Mining companies, see MINES AND MINERALS III(B)
 - Navigation improvement companies, see WATER LAW ¶2545
 - Railroad companies, see RAILROADS II
 - Savings and loan associations, see FINANCE, BANKING, AND CREDIT IV
 - Schools, see EDUCATION
 - Surety companies, see PRINCIPAL AND SURETY I(B)
 - Telephone companies, see TELECOMMUNICATIONS III(C)
 - Turnpike and toll-road companies, see TURNPIKES AND TOLL ROADS ¶5
 - Warehouse and safe deposit companies, see WAREHOUSEMEN ¶4, 41
 - Water, waterworks, water-power companies, see WATER LAW XII(B)3, ¶2277
 - Wharf or dock companies, see WHARVES
 - Partnerships, see PARTNERSHIP
 - Securities regulation, see SECURITIES REGULATION
 - Subchapter S corporations, see INTERNAL REVENUE
 - Taxation, see INTERNAL REVENUE, TAXATION
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- I. NATURE AND THEORY OF INCORPORATION, ¶1001-1029.
 - II. DISREGARDING CORPORATE ENTITY; PIERCING CORPORATE VEIL, ¶1030-1099.
 - III. INCORPORATION AND ORGANIZATION, ¶1100-1209.
 - (A) IN GENERAL, ¶1100-1109.
 - (B) INCORPORATORS AND PROMOTERS, ¶1110-1139.
 - (C) PURPOSES OF INCORPORATION, ¶1140-1159.
 - (D) APPLICATION AND CERTIFICATE OR ARTICLES OF INCORPORATION, ¶1160-1179.
 - (E) ORGANIZATION OF CORPORATION, ¶1180-1189.
 - (F) VALIDITY OF INCORPORATION, ¶1190-1209.
 - IV. CORPORATE EXISTENCE AND FRANCHISE, ¶1210-1279.
 - (A) IN GENERAL, ¶1210-1239.
 - (B) REQUISITES AND INCIDENTS OF CORPORATE EXISTENCE, ¶1240-1279.
 - V. CAPITAL AND STOCK, ¶1280-1499.
 - (A) NATURE AND AMOUNT OF CAPITAL AND SHARES, ¶1280-1309.
 - (B) SUBSCRIPTION TO STOCK, ¶1310-1369.
 - (C) ISSUANCE OF STOCK, ¶1370-1399.
 - (D) TRANSFER OF SHARES, ¶1400-1459.
 - (E) DIVIDENDS AND DIVISION OF PROFITS, ¶1460-1479.
 - (F) LIEN OF CORPORATION, ¶1480-1499.
 - VI. SHAREHOLDERS AND MEMBERS, ¶1500-1719.
 - (A) IN GENERAL, ¶1500-1519.
 - (B) RIGHTS AND LIABILITIES AS TO CORPORATION AND OTHER SHAREHOLDERS OR MEMBERS, ¶1520-1599.
 - (C) MEETINGS, ¶1600-1639.
 - (D) LIABILITY FOR CORPORATE DEBTS AND ACTS, ¶1640-1719.
 - VII. DIRECTORS, OFFICERS, AND AGENTS, ¶1720-2019.
 - (A) IN GENERAL, ¶1720-1729.
 - (B) ELECTION OR APPOINTMENT, QUALIFICATION, AND TENURE, ¶1730-1779.
 - 1. DIRECTORS, ¶1730-1759.
 - 2. OFFICERS AND AGENTS, ¶1760-1779.
 - (C) AUTHORITY AND FUNCTIONS, ¶1780-1809.

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VII. DIRECTORS, OFFICERS, AND AGENTS—Cont'd

- (D) RIGHTS, DUTIES, AND LIABILITIES AS TO CORPORATION AND ITS SHAREHOLDERS OR MEMBERS, ⚡1810–1949.
- (E) LIABILITY FOR CORPORATE DEBTS AND ACTS, ⚡1950–2019.

VIII. DERIVATIVE ACTIONS; SUING OR DEFENDING ON BEHALF OF CORPORATION, ⚡2020–2249.

- (A) IN GENERAL, ⚡2020–2069.
- (B) DERIVATIVE ACTIONS BY SHAREHOLDERS AGAINST DIRECTORS, OFFICERS, OR AGENTS, ⚡2070–2119.
- (C) DERIVATIVE ACTIONS BY SHAREHOLDERS AGAINST THIRD PARTIES, ⚡2120–2169.
- (D) DERIVATIVE ACTIONS BY SHAREHOLDERS AGAINST OTHER SHAREHOLDERS, ⚡2170–2219.
- (E) DERIVATIVE ACTIONS BY PERSONS OTHER THAN SHAREHOLDERS, ⚡2220–2249.

IX. CORPORATE POWERS AND LIABILITIES, ⚡2250–2629.

- (A) EXTENT AND EXERCISE OF POWERS IN GENERAL, ⚡2250–2299.
- (B) REPRESENTATION OF CORPORATION BY CORPORATE PRINCIPALS, ⚡2300–2419.
- (C) PROPERTY AND CONVEYANCES, ⚡2420–2439.
- (D) CONTRACTS AND INDEBTEDNESS, ⚡2440–2499.
- (E) TORTS, ⚡2500–2519.
- (F) CIVIL ACTIONS, ⚡2520–2609.
- (G) CRIMES AND PROSECUTIONS, ⚡2610–2629.

X. MERGERS, ACQUISITIONS, AND REORGANIZATIONS, ⚡2630–2829.

- (A) IN GENERAL, ⚡2630–2649.
- (B) MERGERS AND CONSOLIDATIONS, ⚡2650–2699.
- (C) SALE, LEASE, OR EXCHANGE OF SUBSTANTIALLY ALL CORPORATE ASSETS, ⚡2700–2739.
- (D) SALE OR TRANSFER OF ALL OR CONTROLLING INTEREST OF STOCK, ⚡2740–2769.
- (E) REORGANIZATIONS, ⚡2770–2799.

X. MERGERS, ACQUISITIONS, AND REORGANIZATIONS—Cont'd

- (F) SPIN-OFFS, SPLIT-OFFS, AND CORPORATE DIVISIONS, ⚡2800–2809.
- (G) ANTI-TAKEOVER MEASURES AND DEVICES, ⚡2810–2829.

XI. INSOLVENCY AND RECEIVERS, ⚡2830–2989.

- (A) INSOLVENCY IN GENERAL, ⚡2830–2839.
- (B) FRAUDULENT CONVEYANCES AND PREFERENCES, ⚡2840–2869.
- (C) CREDITORS' REMEDIES IN GENERAL, ⚡2870–2909.
- (D) RECEIVERSHIP, ⚡2910–2939.
- (E) COLLECTION OF ASSETS, ENFORCEMENT OF LIABILITIES, AND PAYMENT OF CLAIMS, ⚡2940–2989.

XII. DISSOLUTION AND FORFEITURE OF FRANCHISE, ⚡2990–3169.

- (A) IN GENERAL, ⚡2990–3019.
- (B) PROCEEDINGS FOR DISSOLUTION OR FORFEITURE, ⚡3020–3079.
 - 1. IN GENERAL, ⚡3020–3029.
 - 2. VOLUNTARY DISSOLUTION, ⚡3030–3039.
 - 3. ADVERSARY OR ENFORCED DISSOLUTION OR FORFEITURE, ⚡3040–3069.
 - 4. REVIEW, ⚡3070–3079.
- (C) OPERATION AND EFFECT OF DISSOLUTION OR FORFEITURE IN GENERAL, ⚡3080–3099.
- (D) RECEIVERSHIP, ⚡3100–3119.
- (E) COLLECTION OF ASSETS, ENFORCEMENT OF LIABILITIES, AND PAYMENT OF CLAIMS, ⚡3120–3149.

- (F) ACTIONS BY OR AGAINST CORPORATION AFTER DISSOLUTION OR FORFEITURE, ⚡3150–3169.

XIII. FOREIGN CORPORATIONS, ⚡3170–3349.

- (A) IN GENERAL, ⚡3170–3199.
- (B) OBTAINING AUTHORIZATION TO DO BUSINESS, ⚡3200–3229.
- (C) OPERATION AND EFFECT OF BEING AUTHORIZED TO DO BUSINESS IN GENERAL, ⚡3230–3249.

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XIII. FOREIGN CORPORATIONS

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(D) ACTIONS BY OR AGAINST FOREIGN CORPORATIONS,

⌚3250–3309.

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⌚3310–3329.

(F) MERGERS, REORGANIZATIONS, AND DISSOLUTION,

⌚3330–3349.

XIV. NON-PROFIT CORPORATIONS,

⌚3350–3499.

(A) IN GENERAL, ⌚3350–3359.

(B) DISREGARDING CORPORATE ENTITY; PIERCING CORPORATE VEIL, ⌚3360–3369.

(C) INCORPORATION AND ORGANIZATION, ⌚3370–3379.

(D) CORPORATE EXISTENCE AND FRANCHISE, ⌚3380–3389.

(E) CAPITAL AND STOCK, ⌚3390–3399.

(F) SHAREHOLDERS AND MEMBERS, ⌚3400–3419.

(G) DIRECTORS, OFFICERS, AND AGENTS, ⌚3420–3439.

(H) DERIVATIVE ACTIONS; SUING OR DEFENDING ON BEHALF OF CORPORATION, ⌚3440–3449.

(I) CORPORATE POWERS AND LIABILITIES, ⌚3450–3469.

(J) MERGERS, ACQUISITIONS, AND REORGANIZATIONS, ⌚3470–3479.

(K) INSOLVENCY, DISSOLUTION, AND FORFEITURE OF FRANCHISE, ⌚3480–3489.

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XV. UNINCORPORATED BUSINESS ORGANIZATIONS, ⌚3500–3665.

(A) IN GENERAL, ⌚3500–3509.

(B) BUSINESS, TRADE, AND PROFESSIONAL ASSOCIATIONS, ⌚3510–3549.

(C) JOINT STOCK COMPANIES, ⌚3550–3579.

(D) BUSINESS TRUSTS, ⌚3580–3609.

(E) LIMITED LIABILITY COMPANIES, ⌚3610–3665.

I. NATURE AND THEORY OF INCORPORATION.

1001. In general.

1002. What is a corporation in general.

I. NATURE AND THEORY OF INCORPORATION.(Cont'd)

1003. Corporation distinguished from other business entities.

Sole proprietorships, see ⌚3501.

1004. — In general.

1005. — Partnerships and joint ventures.

1006. Status of corporation in general.

1007. — In general.

1008. — Creature of law, fiction, or artificial being.

1009. — Person, resident, or citizen.

1010. Corporation as distinct entity.

1011. — In general.

1012. — Related corporations in general.

1013. — Parent and subsidiary corporations.

1014. Kinds and classes of corporations.

Non-profit corporations, see ⌚3351. Public and quasi-municipal corporations, see MUNICIPAL CORPORATIONS ⌚2. Public service corporations, see PUBLIC UTILITIES ⌚103.

1015. — In general.

1016. — Private corporations in general.

1017. — Corporations sole.

See also RELIGIOUS SOCIETIES.

1018. — Closely held corporations.

1019. — Cooperatives.

Agricultural cooperatives, see AGRICULTURE ⌚6. Electric cooperatives, see ELECTRICITY ⌚8.1(3).

1020. — Professional corporations.

Law firms, see ATTORNEY AND CLIENT ⌚30.

II. DISREGARDING CORPORATE ENTITY; PIERCING CORPORATE VEIL.

1030. In general.

1031. Nature of remedy.

1032. Reluctance to apply remedy.

1033. Reverse piercing of corporate veil.

1034. Piercing corporate veil for benefit of shareholder.

1035. Reasons and justifications.

1036. — In general.

1037. — Justice and equity in general.

1038. — Fraud or illegal acts in general.

1039. — Alter ego in general.

1040. — Instrumentality in general.

1041. — Agency in general.

1042. Factors considered.

1043. — In general.

1044. — Domination or control by shareholder.

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II. DISREGARDING CORPORATE ENTITY; PIERCING CORPORATE VEIL.(Cont'd)

- 1045. — Undercapitalization.
- 1046. — Commingling of funds or assets.
- 1047. — Separate books.
- 1048. — Non-observance of corporate formalities.
- 1049. — Number and relation of shareholders.
- 1050. Separate corporations; disregarding separate entities.
- 1051. — In general.
- 1052. — Related corporations in general.
- 1053. — Parent and subsidiary corporations in general.
- 1054. — Single business enterprise.
- 1055. — Common enterprise.
- 1056. — Identity of directors, officers, or shareholders.
- 1057. Particular occasions for determining corporate entity.
- 1058. — In general.
- 1059. — Contracts in general.
- 1060. — Debts and obligations of corporation in general.
- 1061. — Evasion or violation of law or orders in general.
- 1062. — Family and domestic relations.
- 1063. — Environmental liabilities and violations.
- 1064. — Labor and employment liabilities and violations.
- 1065. — Insolvency, bankruptcy, and receivership.
- 1066. — Equipment leases.
- 1067. — Landlord and tenant.
- 1068. — Liens, bonds, notes, and mortgages.
- 1069. — Sale and transfer of property.
- 1070. — Shareholders, officers, and corporation, rights inter se.
- 1071. — Taxation in general.
- 1072. — Income and excess profits tax.
- 1073. — Torts in general.
- 1074. — Fraud.
- 1075. — Negligence.
- 1076. — Patent, copyright, and trademark ownership and infringement.
- 1077. — Wills and decedents' estates.

II. DISREGARDING CORPORATE ENTITY; PIERCING CORPORATE VEIL.(Cont'd)

- 1078. — Remedies and procedure.
 - (1). In general.
 - (2). Jurisdiction and venue in general.
 - (3). Jurisdiction over shareholders, directors, or officers of foreign corporations.
 - (4). Parties and standing.
 - (5). Process.
 - (6). Arbitration.
- 1079. Actions to pierce corporate veil.
- 1080. — In general.
- 1081. — Jurisdiction and venue.
- 1082. — Persons entitled to sue; standing.
- 1083. — Time to sue; limitations and laches.
- 1084. — Parties.
- 1085. — Pleading.
 - (1). In general.
 - (2). Justice and equity in general.
 - (3). Fraud or illegal acts in general.
 - (4). Alter ego, instrumentality, or agency in general.
 - (5). Domination or control by shareholder.
 - (6). Undercapitalization.
 - (7). Commingling of funds or assets.
 - (8). Non-observance of corporate formalities.
 - (9). Number and relation of shareholders.
 - (10). Separate corporations.
- 1086. — Evidence.
 - (1). In general.
 - (2). Presumptions and burden of proof.
 - (3). Admissibility.
 - (4). Weight and sufficiency.
 - (5). — In general.
 - (6). — Justice and equity in general.
 - (7). — Fraud or illegal acts in general.
 - (8). — Alter ego, instrumentality, or agency in general.
 - (9). — Domination or control by shareholder.
 - (10). — Undercapitalization.

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II. DISREGARDING CORPORATE ENTITY; PIERCING CORPORATE VEIL.(Cont'd)

- (11). — Commingling of funds or assets.
- (12). — Non-observance of corporate formalities.
- (13). — Number and relation of shareholders.
- (14). — Separate corporations.
- (15). — Degree of proof.
- 1087. — Trial.
- 1088. — Questions of law or fact.
- 1089. — Instructions.
- 1090. — Costs and attorney fees.

III. INCORPORATION AND ORGANIZATION.

(A) IN GENERAL.

- 1100. In general.
- 1101. Power to incorporate.
- 1102. Constitutional and statutory provisions.
- 1103. — In general.
- 1104. — Special charters or acts.
 - (1). In general.
 - (2). Grant or enactment.
 - (3). Validity.
 - (4). Operation and effect in general.
 - (5). Acceptance by incorporators.
 - (6). Organization of corporation.
 - (7). Amendment or repeal.
- 1105. — General statutes.
 - (1). In general.
 - (2). Enactment and provisions.
 - (3). Validity.
 - (4). Operation and effect in general.
 - (5). Retroactivity.
 - (6). Amendment or repeal.
- 1106. Incorporation in different states.

(B) INCORPORATORS AND PROMOTERS.

- 1110. In general.
- 1111. Capacity and qualifications of incorporators.
- 1112. Number of incorporators.
- 1113. Who is a promoter.
- 1114. Acts and agreements of incorporators and promoters in general.
- 1115. — In general.
- 1116. — Fiduciary nature of relation.

III. INCORPORATION AND ORGANIZATION.(Cont'd)

- 1117. — Compensation for services as incorporator or promoter.
- 1118. — Liability to corporation, subscribers, and shareholders in general.
- 1119. — Sale of property to corporation.
- 1120. — Purchase of property for corporation.
- 1121. — Liability to third persons.
- 1122. — Rights and liabilities of incorporators and promoters to each other.
- 1123. Acts and agreements of incorporators and promoters as binding on corporation.
- 1124. — In general.
- 1125. — Validity.
- 1126. — Liability of corporation for contracts of incorporators and promoters in general.
- 1127. — Adoption or ratification by corporation or shareholders in general.
- 1128. — Adoption or ratification by acceptance of benefits.
- 1129. — Rights of corporation on contracts of incorporators and promoters.
- 1130. — Notice or knowledge of incorporators and promoters imputed to corporation.
- 1131. Rights and liabilities arising out of incorporation of sole proprietorships, partnerships, and associations.
- 1132. Actions by or against incorporators, promoters, or corporation.

(C) PURPOSES OF INCORPORATION.

- 1140. In general.
- 1141. Limitation of personal liability of shareholders.
- 1142. Obtaining financial or tax advantages.
- 1143. General business purposes.
- 1144. Specific purposes.
- 1145. — In general.
- 1146. — Manufacturing, agricultural, mining, or mechanical purposes.
Mining corporations, see also MINES AND MINERALS §102.
- 1147. — Agency and brokerage.
- 1148. — Professional corporations.
- 1149. Unlawful purpose.

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(D) APPLICATION AND CERTIFICATE OR ARTICLES OF INCORPORATION.

- 1160. In general.
- 1161. Necessity and amount of capital subscribed and paid.
- 1162. Certificate or articles of incorporation.
- 1163. — In general.
- 1164. — Form and requisites.
- 1165. — Recording and filing.
- 1166. — Construction, operation, and effect.
- 1167. — Amendment.
 - (1). In general.
 - (2). Form and requisites: recording and filing.
 - (3). Proceedings for amendment in general.
 - (4). Assent of shareholders.
 - (5). Construction, operation, and effect.
- 1168. Payment of incorporation fees or taxes.
- 1169. Approval and grant of incorporation.
- 1170. Publication of notice.

(E) ORGANIZATION OF CORPORATION.

- 1180. In general.
- 1181. Organizational meeting of incorporators, directors, or shareholders.

(F) VALIDITY OF INCORPORATION.

- 1190. In general.
- 1191. Defective incorporation or organization in general.
- 1192. Official recognition of corporation.
- 1193. De facto corporations.
- 1194. — In general.
- 1195. — Nature and requisites in general.
- 1196. — Ineffectual attempt to incorporate and organize.
- 1197. — Acting or carrying on business as a corporation.
- 1198. Attacking validity of incorporation.
Estoppel, see 1223.
- 1199. — In general.
- 1200. — Persons entitled.
- 1201. — Collateral attack.

IV. CORPORATE EXISTENCE AND FRANCHISE.

(A) IN GENERAL.

- 1210. In general.
- 1211. Constitutional and statutory provisions.
- 1212. Nature of franchise to be a corporation.
- 1213. Evidence of corporate existence.
- 1214. — In general.
- 1215. — Presumptions and burden of proof.
- 1216. — Particular methods of establishing corporate existence in general.
- 1217. — Evidence by reputation.
- 1218. — Admissions and recognition by dealings.
- 1219. — Acts of incorporation, certificate or articles of incorporation, acceptance, records, or user.
- 1220. — Authenticated copy of official record.
- 1221. — Weight and sufficiency.
- 1222. Knowledge of corporate existence.
- 1223. Estoppel to allege or deny corporate existence.
- 1224. — In general.
- 1225. — Statutory provisions.
- 1226. — Estoppel of third persons.
 - (1). In general.
 - (2). Estoppel by contracts and dealings in general.
 - (3). Estoppel by execution or acceptance of notes or other evidence of indebtedness.
 - (4). Estoppel by admission in action against corporation.
- 1227. — Estoppel of subscribers, shareholders, and members.
- 1228. — Estoppel of incorporators and promoters.
- 1229. — Estoppel of directors and officers.
- 1230. — Estoppel of corporation.
- 1231. Commencement.
- 1232. Duration.
- 1233. Extension or renewal.
- 1234. Unauthorized assumption of corporate franchise.

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(B) REQUISITES AND INCIDENTS OF CORPORATE EXISTENCE.

- 1240. In general.
- 1241. Corporate name.
Use as trademark, see TRADEMARKS.
- 1242. — In general.
- 1243. — Necessity.
- 1244. — Names which may be adopted.
 - (1). In general.
 - (2). Words showing incorporation.
- 1245. — Mode of acquisition.
- 1246. — Right to and manner of use in general.
- 1247. — Conflicting names; similarity and confusion.
 - (1). In general.
 - (2). Personal names in general.
 - (3). Particular names.
- 1248. — Misnomer.
- 1249. — Fictitious or assumed name.
- 1250. — Change of name.
- 1251. — Unauthorized assumption of corporate name.
- 1252. — Actions and proceedings.
- 1253. Corporate seal.
- 1254. Domicile or place of business.
- 1255. — In general.
- 1256. — Designation or change of registered office or place of business.
- 1257. — Designation or change of agent for service of process.
- 1258. Bylaws.
- 1259. — In general.
- 1260. — Power to make.
- 1261. — Validity in general.
- 1262. — Adoption, amendment, and repeal.
- 1263. — Construction, operation, and effect.
- 1264. — Violation and enforcement.
- 1265. Books and records.
- 1266. Maintaining corporate franchise.
- 1267. — In general.
- 1268. — Annual filing requirements and other reports.

V. CAPITAL AND STOCK.

(A) NATURE AND AMOUNT OF CAPITAL AND SHARES.

- 1280. In general.

V. CAPITAL AND STOCK.(Cont'd)

- 1281. Constitutional and statutory provisions.
- 1282. Capital of non-stock corporations.
- 1283. What constitutes capital stock.
- 1284. — In general.
- 1285. — Distinction between debt and equity; capital contributions.
Making and issuance of debt instruments, see 2462.
- 1286. — Surplus.
- 1287. Amount of capital.
- 1288. Division of capital into shares.
- 1289. — In general.
- 1290. — Par value.
- 1291. — Classes of stock in general.
- 1292. — Preferred stock.
- 1293. — Conversion.
- 1294. Nature of property in shares.
- 1295. — In general.
- 1296. — Intangible property.
- 1297. — Personal property.
- 1298. Increase of capital stock.
- 1299. Reduction of capital stock.
- 1300. Retirement or redemption of stock; treasury stock.
Agreements to redeem, see 1342.
- 1301. Stock splits and reverse stock splits.

(B) SUBSCRIPTION TO STOCK.

- 1310. In general.
- 1311. Disposition of stock in general.
- 1312. — In general.
- 1313. — New stock.
- 1314. — Treasury stock.
- 1315. Authority to receive subscriptions.
- 1316. Right to subscribe or to issuance of stock.
- 1317. — In general.
- 1318. — Professional corporations.
- 1319. — Options and warrants.
Options to buy or sell, see 1412. Stock options as compensation, see 1817.
 - (1). In general.
 - (2). Nature of option or warrant.
 - (3). Validity.
 - (4). Operation and effect; exercise.
- 1320. — Preemptive rights of existing shareholders.
 - (1). In general.
 - (2). New stock.
 - (3). Treasury stock.

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V. CAPITAL AND STOCK.(Cont'd)

- 1321. Contract of subscription.
- 1322. — In general.
- 1323. — Making, requisites, and validity in general.
- 1324. — Consideration.
- 1325. — Construction, operation, and effect.
- 1326. — Rights and liabilities of subscribers.
- 1327. Subscription or sales through promoters or agents.
- 1328. — In general.
- 1329. — Underwriters.
- 1330. Subscriptions obtained by misrepresentation.
- 1331. — In general.
- 1332. — Misrepresentation and reliance thereon in general.
- See also SECURITIES REGULATION.*
- 1333. — Authority of promoter or agent to bind corporation.
- 1334. — Facts or opinions.
- 1335. — Particular misrepresentations.
 - (1). In general.
 - (2). Stock subscribed or to be subscribed.
 - (3). Nature of business and condition of company.
- 1336. — Knowledge of subscriber or opportunity to ascertain truth of representation.
- 1337. — Estoppel, waiver, or laches.
- 1338. — Actions.
 - (1). In general.
 - (2). Evidence.
 - (3). Remedies of subscribers; rescission.
- 1339. Conditional subscriptions.
- 1340. Collateral agreements.
- 1341. — In general.
- 1342. — Agreements to redeem or repurchase.
- Restrictions and agreements on right to transfer shares, see §1404.*
 - (1). In general.
 - (2). Validity in general.
 - (3). Upon death of shareholder.
 - (4). Upon termination of service as employee.

V. CAPITAL AND STOCK.(Cont'd)

- (5). Solvency of corporation or sufficiency of surplus.
- (6). Valuation and purchase price.
- 1343. — Actions to enforce agreements.
- 1344. Withdrawal or cancellation.
- 1345. Release or discharge.
- 1346. Assignment.
- 1347. Oversubscription.
- 1348. Allotment or apportionment of shares.
- 1349. Payment.
- 1350. Calls or assessments on unpaid subscriptions.
- 1351. — In general.
- 1352. — Power and duty to make.
- 1353. — Demand and notice.
- 1354. — Estoppel to allege informalities or invalidity.
- 1355. — Time when, and amounts for which, assessments may be levied.
- 1356. — Liability for interest or penalty.
- 1357. Actions on subscriptions.
- 1358. — In general.
- 1359. — Right of action and defenses.
- 1360. — Nature and form of remedy.
- 1361. — Jurisdiction and venue.
- 1362. — Time to sue; limitations and laches.
- 1363. — Parties.
- 1364. — Pleading.
- 1365. — Evidence.
- 1366. — Trial, judgment, and damages.
- 1367. Forfeiture of unpaid shares.

(C) ISSUANCE OF STOCK.

- 1370. In general.
- 1371. Power and authority to issue in general.
- 1372. Stock certificates in general.
- 1373. — In general.
- 1374. — Nature and necessity of certificate.
- 1375. — Form and requisites of certificate.
- Restrictions on transfer, see §1407.*
- 1376. — Loss of certificate.
- 1377. Persons entitled to stock or certificates.
- 1378. Issuance and delivery of stock or certificates in general.
- 1379. Consideration.
- 1380. — In general.

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V. CAPITAL AND STOCK.(Cont'd)

- 1381. — Unauthorized or insufficient consideration in general.
- 1382. — Consideration less than par value.
- 1383. — Property.
- 1384. — Services.
 - (1). In general.
 - (2). Future services.
- 1385. — Notes or other securities.
- 1386. Irregular or erroneous issue.
- 1387. Fraudulent issue.
- 1388. Overissue.
- 1389. Ratification of unauthorized issue.
- 1390. Estoppel to allege invalidity.
- 1391. Rights and remedies as to invalid stock.
- 1392. — In general.
- 1393. — Original purchasers or holders.
- 1394. — Subsequent purchasers in general.
- 1395. — Bona fide purchasers.
- 1396. Cancellation of shares or certificates.
- 1397. Actions.

(D) TRANSFER OF SHARES.

Sale or transfer of all or a controlling interest of stock, see X(D).

- 1400. In general.
- 1401. Assignability of shares in general.
- 1402. Statutory provisions.
- 1403. Negotiability of certificates.
- 1404. Restrictions and agreements on right to transfer.
 - Agreements to redeem, see ¶1342.*
- 1405. — In general.
- 1406. — Right of first refusal of corporation and other shareholders; buy-sell agreements and bylaw provisions.
 - (1). In general.
 - (2). Validity.
 - (3). Construction and operation in general.
 - (4). Valuation and purchase price.
- 1407. — Restriction stated on certificate.
- 1408. — Professional corporations.
- 1409. — Actions to enforce restriction or right of first refusal.
- 1410. Requisites of transfer in general.
- 1411. Transfer on death; beneficiary designation.
- 1412. Options to buy or sell.
 - Options or warrants to subscribe, see ¶1319. Stock options as compensation, see ¶1817.*

V. CAPITAL AND STOCK.(Cont'd)

- 1413. Sales.
- 1414. — In general.
- 1415. — What law governs.
- 1416. — Contract.
 - (1). In general.
 - (2). Requisites and validity in general.
 - (3). Fraud and misrepresentation.
 - (4). Rescission.
 - (5). Performance or breach.
 - (6). Construction, operation, and effect.
 - (7). Warranties and agreements to repurchase.
- 1417. — Actions.
 - (1). In general.
 - (2). Conditions precedent to action or defense.
 - (3). Jurisdiction and venue.
 - (4). Persons entitled to sue; standing.
 - (5). Time to sue; limitations and laches.
 - (6). Pleading.
 - (7). Evidence.
 - (8). Trial and judgment.
 - (9). Damages or amount of recovery.
 - (10). Costs and attorney fees.
- 1418. Judicial sales.
- 1419. Pledges.
 - See also SECURED TRANSACTIONS.*
- 1420. — In general.
- 1421. — Title to stock pledged.
- 1422. — Rights and remedies of pledgees.
- 1423. — Pledgees as bona fide purchasers.
- 1424. — Sale or other disposition of stock and failure to sell or convert.
- 1425. — Conversion of stock before default.
- 1426. — Actions.
- 1427. — Transfer of stock by pledgee.
- 1428. — Operation and effect in general.
- 1429. — Return of stock under agreement or on payment or discharge.
- 1430. — Enforcement.
- 1431. Assignment of certificate.
- 1432. — In general.
- 1433. — Mode and sufficiency in general.
- 1434. — Blank transfer, stock power, and power of attorney.

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V. CAPITAL AND STOCK.(Cont'd)

- 1435. Surrender and reissue of certificate.
- 1436. Registration or transfer on corporate books.
- 1437. — In general.
- 1438. — Necessity.
- 1439. — Duty to make or allow.
- 1440. — Persons entitled.
 - (1). In general.
 - (2). Bona fide purchasers.
- 1441. — Making and sufficiency.
- 1442. — Liabilities, remedies, and actions for refusal.
 - (1). In general.
 - (2). Conversion.
 - (3). Transfer agents.
- 1443. — Liabilities, remedies, and actions for erroneous or wrongful transfer.
 - (1). In general.
 - (2). Conversion.
 - (3). Transfer agents.
- 1444. — Rights and liabilities of owner of stock registered in another's name.
- 1445. — Rights of creditors of transferor.
- 1446. Ratification of invalid transfer.
- 1447. Setting aside transfer.
- 1448. Evidence as to transfer.
- 1449. Questions for jury as to transfer.
- 1450. Estoppel to allege or deny transfer.
- 1451. Effect of transfer.
- 1452. — In general.
- 1453. — Liability on unpaid subscription or assessment.
- 1454. — Conflicting assignments.
- 1455. — Lost or stolen certificate.
- 1456. — Alteration or forgery of certificate or transfer.
- 1457. — Bona fide purchasers.

(E) DIVIDENDS AND DIVISION OF PROFITS.

- 1460. In general.
- 1461. Division of profits in general.
- 1462. What is a dividend.
- 1463. Declaration of dividends.
- 1464. — In general.
- 1465. — Discretion of directors.
- 1466. — Validity.
 - (1). In general.

V. CAPITAL AND STOCK.(Cont'd)

- (2). Sufficiency of surplus or retained earnings.
- (3). Solvency of corporation.
- 1467. — Constructive dividends.
- 1468. — Right of shareholders to compel declaration of dividends and actions therefor.
- 1469. Rights and liabilities as to dividends improperly paid.
- 1470. Rights and remedies of shareholders as to dividends.
- 1471. — In general.
- 1472. — Shareholders' right to payment of dividend.
- 1473. — Stock entitled to share in dividend.
 - (1). In general.
 - (2). Transferred stock; record date or ex dividend date.
- 1474. — Payment of dividends.
- 1475. — Preferred or other special stock.
 - (1). In general.
 - (2). Cumulative dividends.
- 1476. — Interest on shares or dividends.
- 1477. — Actions on dividends.
- 1478. Stock dividends.

(F) LIEN OF CORPORATION.

- 1480. In general.
- 1481. Nature and grounds in general.
- 1482. Creation.
- 1483. Restriction on right to transfer by one indebted to corporation.
- 1484. Stock or dividend subject to lien.
- 1485. Debts secured.
- 1486. Waiver.
- 1487. Priority.
- 1488. Discharge.
- 1489. Enforcement.

VI. SHAREHOLDERS AND MEMBERS.

(A) IN GENERAL.

- 1500. In general.
- 1501. Constitutional and statutory provisions.
- 1502. Who are shareholders or members.
- 1503. — In general.
- 1504. — Non-stock corporations.

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VI. SHAREHOLDERS AND MEMBERS.(Cont'd)

- 1505. Evidence of shareholder status or membership.
- 1506. — In general.
- 1507. — Non-stock corporations.
- 1508. Withdrawal.
- 1509. — In general.
- 1510. — Non-stock corporations.
- 1511. Expulsion, suspension, or exclusion.
- 1512. — In general.
- 1513. — Non-stock corporations.

(B) RIGHTS AND LIABILITIES AS TO CORPORATION AND OTHER SHAREHOLDERS OR MEMBERS.

- 1520. In general.
- 1521. What law governs.
- 1522. Nature of relation.
- 1523. — In general.
- 1524. — Fiduciary duty in general.
- 1525. — Duty of corporation to shareholders.
- 1526. — Duty of shareholders or members to other shareholders or members.
 - (1). In general.
 - (2). Closely held corporations in general.
 - (3). Controlling or majority shareholders and minority shareholders in general.
 - (4). Duty to disclose information.
 - (5). Freeze out or oppression of minority shareholders.
 - (6). Rights and remedies of dissenting shareholders in general.
- Rights and remedies of minority shareholders in connection with mergers, acquisitions and reorganizations, see ¶2666, 2716, 2743, 2780, 2804.*
- (7). Valuation of shares; appraisal and proceedings.
- 1527. Liability to assessment.
- 1528. Dues, fines, and fees.
- 1529. Services to corporation; shareholders as employees.
- 1530. — In general.
- 1531. — Compensation.
- 1532. — Termination.
- 1533. Rights as creditors of corporation.
- 1534. Management of corporate affairs in general.
- 1535. — In general.

VI. SHAREHOLDERS AND MEMBERS.(Cont'd)

- 1536. — Sole shareholder.
- 1537. — Shareholder agreements as to management.
- 1538. — Majority and minority shareholders; controlling interest.
- 1539. Inspection of corporate books and records.
- 1540. — In general.
- 1541. — Right to inspection.
 - (1). In general.
 - (2). Proper purposes.
 - (3). Reasonable time and place.
- 1542. — Books and records subject to inspection.
 - (1). In general.
 - (2). List of shareholders.
- 1543. — Persons entitled to inspection.
 - (1). In general.
 - (2). Amount or percentage of stock owned.
 - (3). Length of time as shareholder.
- 1544. — Request for inspection.
- 1545. — Refusal to allow inspection.
- 1546. — Exercise of right of inspection.
- 1547. — Furnishing shareholder statement of corporate affairs.
- 1548. — Actions to enforce right of inspection.
 - (1). In general.
 - (2). Jurisdiction and venue.
 - (3). Persons entitled to sue; standing.
 - (4). Time to sue; limitations and laches.
 - (5). Parties.
 - (6). Pleading.
 - (7). Evidence.
 - (8). Trial and judgment.
 - (9). Costs and attorney fees.
- 1549. Corporate property, funds, and securities.
- 1550. — In general.
- 1551. — Title and rights in general.
- 1552. — Equitable and beneficial interest.
- 1553. — Individual interest or conveyance.
- 1554. — Impairment of capital or division of assets.
- 1555. — Sole shareholder.

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VI. SHAREHOLDERS AND MEMBERS.(Cont'd)

- 1556. — Majority and minority shareholders.
- 1557. — Sale or transfer of corporate property.
- 1558. Acquiring adverse title or interest.
- 1559. Individual profits or benefits from corporate business.
- 1560. Engaging in competing business.
- 1561. — In general.
- 1562. — Usurping corporate opportunity.
- 1563. Dealings with corporation.
- 1564. Dealings between shareholders or members of same corporation.
- 1565. — In general.
- 1566. — Purchase or sale of stock.
- 1567. Stock ownership or membership in different corporations.
- 1568. Actions between shareholders or members and corporation.
Derivative actions, see VIII.
- 1569. — In general.
- 1570. — Right of shareholder or member to sue corporation; standing.
- 1571. — Grounds of action by shareholder or member against corporation.
 - (1). In general.
 - (2). Ultra vires transactions or wrongful use of power.
 - (3). Improper issue or division of stock.
- 1572. — Estoppel, waiver, limitations, and laches.
- 1573. — Demand before action.
- 1574. — Actions by corporation against shareholders or members.
- 1575. — Jurisdiction and venue.
- 1576. — Parties.
- 1577. — Pleading.
- 1578. — Evidence.
- 1579. — Trial and judgment.
- 1580. — Buy-out remedies.
- 1581. — Damages or amount of recovery.
- 1582. — Costs and attorney fees.
- 1583. Actions between shareholders or members of same corporation.
- 1584. — In general.
- 1585. — Jurisdiction and venue.
- 1586. — Right of shareholder or member to sue; standing.

VI. SHAREHOLDERS AND MEMBERS.(Cont'd)

- 1587. — Estoppel, waiver, limitations, and laches.
 - 1588. — Parties.
 - 1589. — Pleading.
 - 1590. — Evidence.
 - 1591. — Trial and judgment.
 - 1592. — Buy-out remedies.
 - 1593. — Damages or amount of recovery.
 - 1594. — Costs and attorney fees.
- (C) MEETINGS.**
- Election of directors, see ¶1734.*
- 1600. In general.
 - 1601. Statutory provisions.
 - 1602. Necessity.
 - 1603. — In general.
 - 1604. — Actions taken by consent without meeting.
 - 1605. Place for meeting.
 - 1606. Time for meeting.
 - 1607. Calling.
 - 1608. Notice.
 - 1609. — In general.
 - 1610. — Necessity of and persons entitled to notice.
 - 1611. — Time for notice.
 - 1612. — Form and requisites.
 - 1613. — Waiver.
 - 1614. Quorum.
 - 1615. Organization and conduct.
 - 1616. Right to vote in general.
 - 1617. — In general.
 - 1618. — Transfer or pledge of shares.
 - 1619. Proxies.
See also SECURITIES REGULATION I(C)4.
 - 1620. — In general.
 - 1621. — Right to vote by proxy.
 - 1622. — Solicitation; proxy statements.
 - 1623. — Form and requisites.
 - 1624. — Authority of proxy and effect of representation.
 - 1625. — Revocation.
 - (1). In general.
 - (2). Power coupled with interest.
 - 1626. Voting trusts.
 - 1627. — In general.
 - 1628. — Validity.
 - 1629. — Construction and operation in general.

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VI. SHAREHOLDERS AND MEMBERS.(Cont'd)

- 1630. — Duration and termination.
- 1631. — Trustees.
- 1632. Agreements as to voting.
- 1633. Number of votes or shares required to prevail.
- 1634. Postponement or adjournment.
- 1635. Judicial regulation or review of proceedings.
- (D) LIABILITY FOR CORPORATE DEBTS AND ACTS.
 - Piercing corporate veil, see II.*
 - 1640. In general.
 - 1641. Constitutional and statutory provisions.
 - 1642. What law governs.
 - 1643. Nature and grounds in general.
 - 1644. — In general.
 - 1645. — Parent and subsidiary corporations.
 - 1646. Contracts and securities for payment of corporate liabilities.
 - 1647. — In general.
 - 1648. — Promissory notes.
 - 1649. — Shareholder guaranty.
 - (1). In general.
 - (2). Validity.
 - (3). Operation and effect.
 - 1650. Nature or kind of corporation as affecting shareholder liability.
 - 1651. Obligations incurred before incorporation.
 - 1652. Defective incorporation or organization.
 - 1653. Fraud as to creditors.
 - 1654. Participation in unauthorized or wrongful acts of corporation.
 - 1655. Failure to comply with statutory requirements.
 - 1656. Extent of liability in general.
 - 1657. Extent of liability on subscription to stock.
 - (1). In general.
 - 1658. — In general.
 - 1659. — Unpaid subscriptions.
 - 1660. — Release of subscriber by corporation.
 - 1661. — Paid up stock in general.
 - 1662. — Certificate of payment.
 - 1663. — Stock issued for unauthorized or insufficient consideration.
 - (1). In general.

VI. SHAREHOLDERS AND MEMBERS.(Cont'd)

- (2). Liability for purchasing at less than par value.
- (3). Sufficiency of consideration and payment in property or services.
- (4). Excessive valuation of property transferred in payment.
- 1664. — Increase of stock.
- 1665. — Reduction of stock.
- 1666. Extent of additional statutory liability.
- 1667. Amendment or repeal of statute imposing liability.
- 1668. Debts to which liability extends.
- 1669. — In general.
- 1670. — Wages.
- 1671. — Unliquidated damages and judgment for torts.
- 1672. Persons entitled to enforce liability.
- 1673. Persons liable.
- 1674. — In general.
- 1675. — Subscribers or their assignees.
- 1676. — Holders or owners of stock.
 - (1). In general.
 - (2). Who are shareholders in general.
 - (3). Persons holding stock as trustees or for special purposes.
 - (4). Holders of preferred stock.
 - (5). Holders of bonus stock or stock issued as gratuity.
 - (6). Holders of shares which have been forfeited.
 - (7). Equitable owners of stock.
 - (8). Persons holding stock as collateral.
 - (9). Estoppel to deny status as shareholder or validity of stock.
- 1677. — Effect of transfer of stock.
 - (1). In general.
 - (2). Liability of transferors in general.
 - (3). Liability of transferor for post-transfer debt.
 - (4). Effect and validity of surrender or sale of stock to corporation.
 - (5). Liability of transferees in general.
 - (6). Liability of transferee for pre-transfer debt.
 - (7). Liability of innocent purchasers.
- 1678. — Effect of death of shareholder.
- 1679. Joint or several liability.
- 1680. Waiver or release of liability.

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VI. SHAREHOLDERS AND MEMBERS.(Cont'd)

- 1681. Payment or satisfaction of liability.
- 1682. Set off of claim by or against shareholder as to corporation.
- 1683. Necessity of exhausting remedy against corporation.
- 1684. Operation and effect as to shareholder of judgment against corporation.
- 1685. Insolvency or dissolution of corporation.
- 1686. — In general.
- 1687. — Trust fund doctrine.
See also 2835, 2843, 2851.
- 1688. Garnishment or attachment of shareholder.
- 1689. Execution against shareholder on judgment against corporation.
- 1690. Actions to enforce liability.
- 1691. — In general.
- 1692. — Nature and form.
 - (1). In general.
 - (2). Action at law.
 - (3). Right to sue at law on subscription.
 - (4). Right to sue at law to enforce statutory liability.
 - (5). Assumpsit.
 - (6). Action of debt.
 - (7). Proceedings in equity.
 - (8). Creditors' bill or suit.
- 1693. — Grounds of action.
- 1694. — Conditions precedent.
- 1695. — Defenses.
 - (1). In general.
 - (2). Liability on subscription.
 - (3). Defects in incorporation or organization.
- 1696. — Jurisdiction and venue.
 - (1). In general.
 - (2). Proceedings in courts of other states.
- 1697. — Time to sue; limitations and laches.
- 1698. — Parties.
 - (1). In general.
 - (2). Joinder of creditors as plaintiffs and right of single creditor to sue.
 - (3). Action by creditor for benefit of other creditors.

VI. SHAREHOLDERS AND MEMBERS.(Cont'd)

- (4). Joinder of receiver or officers as plaintiffs in action by creditors.
 - (5). Necessary parties defendant.
 - (6). Joinder of shareholders as defendants and right to sue single shareholder.
 - (7). Joinder of corporation or its assignee as defendant.
 - (8). Parties defendant in action against estate of deceased shareholder.
 - (9). Right of single creditor to sue single shareholder.
- 1699. — Process and appearance.
- 1700. — Receiver.
- 1701. — Pleading.
 - (1). In general.
 - (2). Bill, complaint, petition, or declaration.
 - (3). Plea or answer, cross-bill or cross-complaint, and subsequent pleadings.
 - (4). Amendment.
 - (5). Issues, proof, and variance.
- 1702. — Evidence.
 - (1). In general.
 - (2). Presumptions and burden of proof.
 - (3). Admissibility.
 - (4). Weight and sufficiency.
- 1703. — Trial.
- 1704. — Damages or amount of recovery.
- 1705. — Judgment or decree.
- 1706. — Execution and enforcement of judgment.
- 1707. — Costs and attorney fees.
- 1708. Priorities among creditors.
- 1709. Contribution among shareholders.
- 1710. Criminal liability of shareholders.

VII. DIRECTORS, OFFICERS, AND AGENTS.

(A) IN GENERAL.

- 1720. In general.
- 1721. Constitutional and statutory provisions.

(B) ELECTION OR APPOINTMENT, QUALIFICATION, AND TENURE.

1. DIRECTORS.

- 1730. In general.

101. CORPORATIONS AND BUSINESS ORGANIZATIONS

VII. DIRECTORS, OFFICERS, AND AGENTS.(Cont'd)

- 1731. Power to elect in general.
- 1732. Eligibility or qualification.
- 1733. Number of directors.
- 1734. Election.
- 1735. — In general.
- 1736. — Requisites and validity in general.
- 1737. — Time and place of election.
- 1738. — Calling.
- 1739. — Notice.
 - (1). In general.
 - (2). Persons entitled to notice.
 - (3). Time for notice.
 - (4). Form and requisites.
 - (5). Waiver.
- 1740. — Quorum.
- 1741. — Right to vote in general.
 - (1). In general.
 - (2). Transfer or pledge of shares.
- 1742. — Conduct of election and count of votes.
 - (1). In general.
 - (2). Cumulative voting.
- 1743. — Proxies.
See also SECURITIES REGULATION I(C)4.
 - (1). In general.
 - (2). Right to vote by proxy.
 - (3). Solicitation; proxy statements.
 - (4). Form and requisites.
 - (5). Authority of proxy and effect of representation.
 - (6). Revocation.
- 1744. — Voting trusts.
- 1745. — Agreements as to voting.
- 1746. — Actions and proceedings to compel meeting for election of directors.
- 1747. — Actions and proceedings to determine right to office.
 - (1). In general.
 - (2). Jurisdiction and venue.
 - (3). Right of action; standing.
 - (4). Evidence.
 - (5). Trial.
 - (6). Judgment, relief, and costs.
- 1748. — Appointment of provisional director.
- 1749. — Estoppel to question right to office.
- 1750. Acceptance, oath, and bond.

VII. DIRECTORS, OFFICERS, AND AGENTS.(Cont'd)

- 1751. De facto directors.
- 1752. Estoppel to deny directorship.
- 1753. Term of office and tenure.
- 1754. Resignation.
- 1755. Disqualification.
- 1756. Removal.
- 1757. Election of successor.

2. OFFICERS AND AGENTS.

- 1760. In general.
- 1761. Power to elect or appoint in general.
- 1762. Eligibility or qualification.
- 1763. Election or appointment of officers.
- 1764. Appointment of agents.
- 1765. Acceptance, oath, and bond.
- 1766. De facto officers and agents.
- 1767. Estoppel to deny appointment or agency.
- 1768. Term of office and tenure.
- 1769. Resignation.
- 1770. Disqualification.
- 1771. Removal.
- 1772. Election or appointment of successor.

(C) AUTHORITY AND FUNCTIONS.

- 1780. In general.
- 1781. Nature of corporate office in general.
- 1782. Authority of directors.
- 1783. Meetings of directors.
- 1784. — In general.
- 1785. — Necessity.
- 1786. — Actions taken by consent without meeting.
- 1787. — Legality or validity in general.
- 1788. — Place.
- 1789. — Time.
- 1790. — Calling.
- 1791. — Notice.
 - (1). In general.
 - (2). Necessity of and persons entitled to notice.
 - (3). Time for notice.
 - (4). Form and requisites.
 - (5). Waiver.
- 1792. — Presumptions as to legality or validity of meeting.

101. CORPORATIONS AND BUSINESS ORGANIZATIONS

VII. DIRECTORS, OFFICERS, AND AGENTS.(Cont'd)

- 1793. — Persons entitled to vote in general.
- 1794. — Quorum.
- 1795. — Voting and number required to act.
- 1796. — Directors with individual interest in transaction.
- 1797. — Proxies.
- 1798. — Necessity of recording acts of directors.
- 1799. Committees.
- 1800. Officers and agents.
- 1801. — In general.
- 1802. — President or chief executive officer.
- 1803. — Vice president.
- 1804. — Treasurer or chief financial officer.
- 1805. — Secretary.
- 1806. — Inferior ministerial officers.
- 1807. — Agents.
- 1808. Delegation of authority.

(D) RIGHTS, DUTIES, AND LIABILITIES AS TO CORPORATION AND ITS SHAREHOLDERS OR MEMBERS.

- 1810. In general.
- 1811. Fiduciary nature of relation.
- 1812. Compensation and benefits.
- 1813. — In general.
- 1814. — Right dependent on services within or outside ordinary duties.
- 1815. — Contracts or resolutions providing therefor in general.
- 1816. — Bylaws providing therefor in general.
- 1817. — Stock options.
 - (1). In general.
 - (2). Nature of option.
 - (3). Validity.
 - (4). Operation and effect; exercise.
- 1818. — Stock appreciation rights; phantom stock.
- 1819. — Severance plans and agreements.
 - (1). In general.
 - (2). Golden parachutes.
- 1820. — Directors or officers voting for or fixing own compensation.

VII. DIRECTORS, OFFICERS, AND AGENTS.(Cont'd)

- 1821. — Amount and duration.
- 1822. — Reduction or forfeiture; effect of absence or breach of duty.
- 1823. — Effect of insolvency or dissolution or discontinuance of business.
- 1824. — Payment and acceptance.
- 1825. — Actions for compensation.
 - (1). In general.
 - (2). Evidence.
 - (3). Trial.
 - (4). Damages or amount of recovery.
 - (5). Costs and attorney fees.
- 1826. Indemnification.
- 1827. — In general.
- 1828. — Discretionary or mandatory.
- 1829. — Items and amounts recoverable.
- 1830. — Advancement of expenses.
- 1831. — Actions or proceedings to enforce or deny.
- 1832. Rights as creditors of corporation.
- 1833. — In general.
- 1834. — Loans and advances for benefit of corporation.
- 1835. — Purchase of claims against corporation.
- 1836. — Lien and priority in general.
- 1837. — Transfers, mortgages, and pledges as security.
- 1838. — Bondholders.
- 1839. — Compromise, settlement, and payment.
- 1840. Fiduciary duties as to management of corporate affairs in general.
- 1841. — In general.
- 1842. — Business judgment rule in general.
- 1843. — Duty of care in general.
- 1844. — Good faith.
- 1845. — Loyalty.
- 1846. — Oversight.
- 1847. — Duty to inquire; knowledge or notice.
- 1848. — Disclosure of information to corporation and shareholders or members.
- 1849. — Reliance on attorneys, accountants, professionals, and experts as defense.

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VII. DIRECTORS, OFFICERS, AND AGENTS.(Cont'd)

- 1850. — Degree of care required and negligence.
- 1851. — Misconduct.
- 1852. — Aiding and abetting.
- 1853. Liability for bad debts.
- 1854. Wrongful payment of dividends.
- 1855. Corporate books and records.
- 1856. — In general.
- 1857. — Duty to keep and maintain.
- 1858. — Right to inspect.
- 1859. Corporate property, funds, and securities.
- 1860. — In general.
- 1861. — Liability for property and funds in general.
- 1862. — Corporate waste.
- 1863. — Misappropriation and conversion.
- 1864. — Wrongful issue or indorsement of negotiable instruments.
- 1865. — Purchase and sale of property.
- 1866. — Right to question transactions; estoppel and acquiescence.
- 1867. Conflicts of interest and self-dealing in general.
- 1868. — In general.
- 1869. — Entire fairness in general.
- 1870. — Disclosure and ratification.
- 1871. — Right to question transaction; estoppel and acquiescence.
- 1872. Acquiring adverse title or interest.
- 1873. Individual profits or benefits from corporate business.
- 1874. — In general.
- 1875. — Entire fairness in general.
- 1876. — Entrenchment.
- 1877. — Individual interest in and profits from contracts in general.
- 1878. — Profits or commissions on sales to corporation.
- 1879. — Conveyance of assets for personal gain.
- 1880. — Disclosure and ratification.
- 1881. — Right to question or attack transaction; estoppel and acquiescence.
- 1882. Engaging in competing business.
- 1883. Usurping corporate opportunities.
- 1884. Dealings with corporation or shareholders or members.

VII. DIRECTORS, OFFICERS, AND AGENTS.(Cont'd)

- 1885. — In general.
- 1886. — Entire fairness of transaction in general.
- 1887. — Contracts in general.
- 1888. — Purchase or sale of property to or from corporation or shareholders in general.
- 1889. — Purchase at judicial foreclosure and tax sales against corporation.
- 1890. — Loans from corporation.
- 1891. — Lease to or from corporation.
- 1892. — Purchase or sale of stock to or from director, officer, or agent.
 - (1). In general.
 - (2). Stock options; backdating.
- 1893. — Disclosure and ratification.
- 1894. — Right to question or attack transaction; estoppel and acquiescence.
- 1895. Fraud as against corporation or shareholders or members.
- 1896. — In general.
- 1897. — Contracts in general.
- 1898. — Fraudulent sale of property to corporation and overvaluation.
- 1899. — Fraudulent breach of trust in general.
- 1900. — False representations inducing purchase, retention, or sale of stock.
- 1901. — Fraudulent issue of stock and purchase or sale of stock to or from directors or officers.
 - (1). In general.
 - (2). Stock options; backdating.
- 1902. — Right to question or attack transaction; estoppel or acquiescence.
- 1903. Director, officer, or agent of different corporations.
- 1904. Exculpatory provisions in charter, articles of incorporation or bylaws.
- 1905. Exculpatory action by shareholders; set off.
- 1906. Actions by or against directors, officers, or agents in general.
- 1907. — In general.
- 1908. — Jurisdiction and venue.
- 1909. — Pleading.
- 1910. — Evidence.
- 1911. — Trial and judgment.

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**VII. DIRECTORS, OFFICERS,
AND AGENTS.(Cont'd)**

- 1912. — Damages or amount of recovery.
- 1913. — Receiver.
- 1914. — Costs and attorney fees.
- 1915. Actions between corporation and its directors, officers, or agents.
- 1916. — In general.
- 1917. — Jurisdiction and venue.
- 1918. — Persons entitled to sue; standing.
- 1919. — Remedy at law or in equity.
- 1920. — Defenses.
- 1921. — Time to sue; limitations and laches.
- 1922. — Capacity to sue and parties.
- 1923. — Pleading.
- 1924. — Evidence.
 - (1). In general.
 - (2). Presumptions and burden of proof.
 - (3). Admissibility.
 - (4). Weight and sufficiency.
- 1925. — Trial and judgment.
- 1926. — Damages or amount of recovery.
- 1927. — Receiver.
- 1928. — Costs and attorney fees.
- 1929. Actions between shareholders or members and directors, officers, or agents.
- 1930. — In general.
- 1931. — Conditions precedent; pursuing other remedies.
- 1932. — Jurisdiction and venue.
- 1933. — Persons entitled to sue; standing.
- 1934. — Time to sue; limitations and laches.
- 1935. — Action by single or minority shareholder.
- 1936. — Parties.
- 1937. — Pleading.
 - (1). In general.
 - (2). Bill, petition, or complaint.
 - (3). Plea or answer.
 - (4). Issues, proof, and variance.
- 1938. — Evidence.
 - (1). In general.
 - (2). Presumptions and burden of proof.
 - (3). Admissibility.
 - (4). Weight and sufficiency.

**VII. DIRECTORS, OFFICERS,
AND AGENTS.(Cont'd)**

- 1939. — Trial.
- 1940. — Damages or amount of recovery.
 - (1). In general.
 - (2). Disgorgement.
- 1941. — Receiver.
- 1942. — Judgment or decree.
- 1943. — Costs and attorney fees.
- 1944. Actions between and among directors, officers, or agents.
- 1945. Supervision of official acts by public authorities.
- 1946. Penalties for official misconduct.
- 1947. Criminal responsibility.

(E) LIABILITY FOR CORPORATE DEBTS AND ACTS.

- 1950. In general.
- 1951. Constitutional and statutory provisions.
- 1952. What law governs.
- 1953. — In general.
- 1954. — Fiduciary duties in relation to third parties in general.
- 1955. — Responsible corporate officers.
- 1956. Nature and grounds in general.
- 1957. — In general.
- 1958. — Acting in corporate capacity as opposed to acting in personal capacity.
- 1959. Contracts and guaranties.
- 1960. — In general.
- 1961. — Promissory notes.
- 1962. — Guaranty of corporate contracts, debts, and obligations.
 - (1). In general.
 - (2). Validity.
 - (3). Operation and effect.
- 1963. Nature or kind of corporation affecting liability.
- 1964. Obligations incurred before incorporation.
- 1965. Defective incorporation or organization.
- 1966. Mismanagement of corporate affairs.
- 1967. Illegal issue of stock and securities.
- 1968. Misappropriation of corporate assets.
- 1969. Wrongful payment of dividends.
- 1970. Participation in unauthorized or wrongful acts of corporation in general.
- 1971. Tortious acts in general.

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VII. DIRECTORS, OFFICERS, AND AGENTS.(Cont'd)

- 1972. Fraud.
- 1973. Incurring debt exceeding capital.
- 1974. Liability for corporate reports.
- 1975. — In general.
- 1976. — Failure to make report in general.
- 1977. — Time to make report and for what time and debts liable.
- 1978. — Filing or publishing.
- 1979. — Defective reports.
- 1980. — False reports.
- 1981. Debts to which liability extends.
- 1982. — In general.
- 1983. — Time of incurring debt.
- 1984. Persons entitled to enforce liability.
- 1985. Persons liable.
- 1986. Joint and several liability.
- 1987. Waiver or release of liability; set off.
- 1988. Amendment or repeal of statute imposing liability.
- 1989. Necessity of judgment and execution against corporation.
- 1990. Effect as against director or officer of judgment against corporation.
- 1991. Insolvency, dissolution or forfeiture of charter of corporation.
- 1992. — In general.
- 1993. — Fiduciary duty to creditors in general.
- 1994. — Trust fund doctrine.
- 1995. — Deepening insolvency.
- 1996. Actions to enforce liability.
- 1997. — In general.
- 1998. — Nature and form.
- 1999. — Grounds of action.
- 2000. — Conditions precedent.
- 2001. — Defenses.
- 2002. — Jurisdiction and venue.
- 2003. — Persons entitled to sue; standing.
- 2004. — Time to sue; limitations and laches.
- 2005. — Parties.
- 2006. — Process and appearance.
- 2007. — Pleading.
 - (1). In general.
 - (2). Bill, declaration, petition, or complaint.
 - (3). Answer or affidavit of defense.

VII. DIRECTORS, OFFICERS, AND AGENTS.(Cont'd)

- (4). Issues, proof, and variance.
- 2008. — Evidence.
 - (1). In general.
 - (2). Presumptions and burden of proof.
 - (3). Admissibility.
 - (4). Weight and sufficiency.
- 2009. — Trial.
- 2010. — Damages or amount of recovery.
- 2011. — Receiver.
- 2012. — Judgment or decree.
- 2013. — Execution and enforcement of judgment.
- 2014. — Costs and attorney fees.
- 2015. Contribution among directors, officers, and agents liable.
- 2016. Criminal responsibility of directors, officers, and agents for corporate acts.

VIII. DERIVATIVE ACTIONS; SUING OR DEFENDING ON BEHALF OF CORPORATION.

(A) IN GENERAL.

- 2020. In general.
- 2021. Statutory provisions.
- 2022. Nature and form of remedy.
- 2023. — In general.
- 2024. — Derivative action as distinct from direct or individual action in general.
- 2025. — Recovery to corporation rather than shareholder.
- 2026. — Closely held corporations.
- 2027. Persons entitled to sue or defend; standing.
- 2028. — In general.
- 2029. — Derivative or direct action.
- 2030. — Time of stock ownership in general.
- 2031. — Effect of merger, acquisition, reorganization, or dissolution.
- 2032. — Ability to represent other shareholders.
- 2033. Grounds of action or defense.
- 2034. Conditions precedent in general.
- 2035. Demanding action and refusal of corporation, directors or officers to act.
- 2036. — In general.
- 2037. — Necessity of demand.

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**VIII. DERIVATIVE ACTIONS; SUING OR
DEFENDING ON BEHALF OF
CORPORATION.(Cont'd)**

- 2038. — Sufficiency of demand.
- 2039. — Sufficiency of refusal.
 - (1). In general.
 - (2). Good faith and reasonableness in general.
 - (3). Business judgment rule.
 - (4). Litigation committee investigation and recommendation.
- 2040. — Excuse for failure to demand; futility.
 - (1). In general.
 - (2). Interest of director or officer in lawsuit or lack of independence.
- 2041. — Refusal as condition precedent to right to sue or defend.
- 2042. Jurisdiction and venue.
- 2043. Time to sue; limitations and laches.
- 2044. Parties.
- 2045. Pleading.
- 2046. — In general.
- 2047. — Allegations as to corporate right of action.
- 2048. — Allegations as to interest of or injury to plaintiff.
- 2049. — Necessity of allegation of demand and refusal.
- 2050. — Sufficiency of allegations of demand and refusal.
- 2051. — Allegations of excuse for failure to demand; futility.
- 2052. — Sufficiency of bill, petition, or complaint.
- 2053. — Plea, answer, or demurrer.
- 2054. — Issues, proof, and variance.
- 2055. Evidence.
- 2056. — In general.
- 2057. — Presumptions and burden of proof.
- 2058. — Admissibility.
- 2059. — Weight and sufficiency.
- 2060. Trial and judgment.
- 2061. Damages or amount of recovery.
- 2062. Costs and attorney fees.
- 2063. — In general.
- 2064. — Corporate benefit.
- 2065. — Bond or security.

**(B) DERIVATIVE ACTIONS BY SHAREHOLDERS
AGAINST DIRECTORS, OFFICERS, OR
AGENTS.**

- 2070. In general.
- 2071. Statutory provisions.
- 2072. Nature and form of remedy.
- 2073. — In general.
- 2074. — Derivative action as distinct from direct or individual action in general.
- 2075. — Recovery to corporation rather than shareholder.
- 2076. — Closely held corporations.
- 2077. Persons entitled to sue or defend; standing.
- 2078. — In general.
- 2079. — Derivative or direct action.
- 2080. — Time of stock ownership in general.
- 2081. — Effect of merger, acquisition, reorganization, or dissolution.
- 2082. — Ability to represent other shareholders.
- 2083. Grounds of actions or defense.
- 2084. Conditions precedent in general.
- 2085. Demanding action and refusal of corporation, directors, or officers to act.
- 2086. — In general.
- 2087. — Necessity of demand.
- 2088. — Sufficiency of demand.
- 2089. — Sufficiency of refusal.
 - (1). In general.
 - (2). Good faith and reasonableness in general.
 - (3). Business judgment rule.
 - (4). Litigation committee investigation and recommendation.
- 2090. — Excuse for failure to demand; futility.
 - (1). In general.
 - (2). Interest of director or officer in lawsuit or lack of independence.
- 2091. — Refusal as condition precedent to right to sue or defend.
- 2092. Jurisdiction and venue.
- 2093. Time to sue; limitations and laches.
- 2094. Parties.
- 2095. Pleading.
- 2096. — In general.
- 2097. — Allegations as to corporate right of action.

101. CORPORATIONS AND BUSINESS ORGANIZATIONS

VIII. DERIVATIVE ACTIONS; SUING OR DEFENDING ON BEHALF OF CORPORATION.(Cont'd)

- 2098. — Allegations as to interest of or injury to plaintiff.
- 2099. — Necessity of allegation of demand and refusal.
- 2100. — Sufficiency of allegations of demand and refusal.
- 2101. — Allegations of excuse for failure to demand; futility.
- 2102. — Sufficiency of bill, petition, or complaint.
- 2103. — Plea, answer, or demurrer.
- 2104. — Issues, proof, and variance.
- 2105. Evidence.
- 2106. — In general.
- 2107. — Presumptions and burden of proof.
- 2108. — Admissibility.
- 2109. — Weight and sufficiency.
- 2110. Trial and judgment.
- 2111. Damages or amount of recovery.
- 2112. Costs and attorney fees.
- 2113. — In general.
- 2114. — Corporate benefit.
- 2115. — Bond or security.

(C) DERIVATIVE ACTIONS BY SHAREHOLDERS AGAINST THIRD PARTIES.

- 2120. In general.
- 2121. Statutory provisions.
- 2122. Nature and form of remedy.
- 2123. — In general.
- 2124. — Derivative action as distinct from direct or individual action in general.
- 2125. — Recovery to corporation rather than shareholder.
- 2126. — Closely held corporations.
- 2127. Persons entitled to sue or defend; standing.
- 2128. — In general.
- 2129. — Derivative or direct action.
- 2130. — Time of stock ownership in general.
- 2131. — Effect of merger, acquisition, reorganization, or dissolution.
- 2132. — Ability to represent other shareholders.
- 2133. Grounds of actions or defense.

VIII. DERIVATIVE ACTIONS; SUING OR DEFENDING ON BEHALF OF CORPORATION.(Cont'd)

- 2134. Conditions precedent in general.
- 2135. Demanding action and refusal of corporation, directors, or officers to act.
- 2136. — In general.
- 2137. — Necessity of demand.
- 2138. — Sufficiency of demand.
- 2139. — Sufficiency of refusal.
 - (1). In general.
 - (2). Good faith and reasonableness in general.
 - (3). Business judgment rule.
 - (4). Litigation committee investigation and recommendation.
- 2140. — Excuse for failure to demand; futility.
 - (1). In general.
 - (2). Interest of director or officer in lawsuit or lack of independence.
- 2141. — Refusal as condition precedent to right to sue or defend.
- 2142. Jurisdiction and venue.
- 2143. Time to sue; limitations and laches.
- 2144. Parties.
- 2145. Pleading.
- 2146. — In general.
- 2147. — Allegations as to corporate right of action.
- 2148. — Allegations as to interest of or injury to plaintiff.
- 2149. — Necessity of allegation of demand and refusal.
- 2150. — Sufficiency of allegations of demand and refusal.
- 2151. — Allegations of excuse for failure to demand; futility.
- 2152. — Sufficiency of bill, petition, or complaint.
- 2153. — Plea, answer, or demurrer.
- 2154. — Issues, proof, and variance.
- 2155. Evidence.
- 2156. — In general.
- 2157. — Presumptions and burden of proof.
- 2158. — Admissibility.
- 2159. — Weight and sufficiency.
- 2160. Trial and judgment.
- 2161. Damages or amount of recovery.

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VIII. DERIVATIVE ACTIONS; SUING OR DEFENDING ON BEHALF OF CORPORATION.(Cont'd)

- 2162. Costs and attorney fees.
- 2163. — In general.
- 2164. — Corporate benefit.
- 2165. — Bond or security.

(D) DERIVATIVE ACTIONS BY SHAREHOLDERS AGAINST OTHER SHAREHOLDERS.

- 2170. In general.
- 2171. Statutory provisions.
- 2172. Nature and form of remedy.
- 2173. — In general.
- 2174. — Derivative action as distinct from direct or individual action in general.
- 2175. — Recovery to corporation rather than shareholder.
- 2176. — Closely held corporations.
- 2177. Persons entitled to sue or defend; standing.
- 2178. — In general.
- 2179. — Derivative or direct action.
- 2180. — Time of stock ownership in general.
- 2181. — Effect of merger, acquisition, reorganization, or dissolution.
- 2182. — Ability to represent other shareholders.
- 2183. Grounds of actions or defense.
- 2184. Conditions precedent in general.
- 2185. Demanding action and refusal of corporation, directors, or officers to act.
- 2186. — In general.
- 2187. — Necessity of demand.
- 2188. — Sufficiency of demand.
- 2189. — Sufficiency of refusal.
 - (1). In general.
 - (2). Good faith and reasonableness in general.
 - (3). Business judgment rule.
 - (4). Litigation committee investigation and recommendation.
- 2190. — Excuse for failure to demand; futility.
 - (1). In general.
 - (2). Interest of director or officer in lawsuit or lack of independence.
- 2191. — Refusal as condition precedent to right to sue or defend.

VIII. DERIVATIVE ACTIONS; SUING OR DEFENDING ON BEHALF OF CORPORATION.(Cont'd)

- 2192. Jurisdiction and venue.
- 2193. Time to sue; limitations and laches.
- 2194. Parties.
- 2195. Pleading.
- 2196. — In general.
- 2197. — Allegations as to corporate right of action.
- 2198. — Allegations as to interest of or injury to plaintiff.
- 2199. — Necessity of allegation of demand and refusal.
- 2200. — Sufficiency of allegations of demand and refusal.
- 2201. — Allegations of excuse for failure to demand; futility.
- 2202. — Sufficiency of bill, petition, or complaint.
- 2203. — Plea, answer, or demurrer.
- 2204. — Issues, proof, and variance.
- 2205. Evidence.
- 2206. — In general.
- 2207. — Presumptions and burden of proof.
- 2208. — Admissibility.
- 2209. — Weight and sufficiency.
- 2210. Trial and judgment.
- 2211. Damages or amount of recovery.
- 2212. Costs and attorney fees.

(E) DERIVATIVE ACTIONS BY PERSONS OTHER THAN SHAREHOLDERS.

- 2220. In general.
- 2221. By directors, officers and agents.
- 2222. — In general.
- 2223. — Right to sue or defend; standing.
- 2224. — Demanding action and refusal of corporation, directors, or officers to act.
- 2225. — Jurisdiction and venue.
- 2226. — Time to sue; limitations and laches.
- 2227. — Parties.
- 2228. — Pleading.
- 2229. — Evidence.
- 2230. — Trial and judgment.
- 2231. — Damages or amount of recovery.
- 2232. — Costs and attorney fees.

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VIII. DERIVATIVE ACTIONS; SUING OR DEFENDING ON BEHALF OF CORPORATION.(Cont'd)

- 2233. By creditors.
- 2234. — In general.
- 2235. — Right to sue or defend; standing.
- 2236. — Demanding action and refusal of corporation, directors, or officers to act.
- 2237. — Jurisdiction and venue.
- 2238. — Time to sue; limitations and laches.
- 2239. — Parties.
- 2240. — Pleading.
- 2241. — Evidence.
- 2242. — Trial and judgment.
- 2243. — Damages or amount of recovery.
- 2244. — Costs and attorney fees.

IX. CORPORATE POWERS AND LIABILITIES.

(A) EXTENT AND EXERCISE OF POWERS IN GENERAL.

- 2250. In general.
- 2251. Constitutional and statutory provisions.
- 2252. Scope of corporate power in general.
- 2253. — In general.
- 2254. — Ultra vires acts in general.
- 2255. — Notice of limitations.
- 2256. — Express or implied grant of power in general.
- 2257. Powers essential to corporate existence.
- 2258. Construction of charters and articles of incorporation.
- 2259. Powers incident to execution of those granted.
- 2260. Limitation of powers by purposes of incorporation.
- 2261. Transfer of charter or franchise.
- 2262. Purchasing and holding corporation's own stock.
- 2263. Purchasing and holding stock in other corporations.
- 2264. — In general.
- 2265. — Subscription to stock.
- 2266. — Purchase of stock.
- 2267. Professional corporations.
Practice of law by corporations, see ATTORNEY AND CLIENT ¶12(2). *Law firms, see ATTORNEY AND CLIENT* ¶30. *Legal Services Corporation, see ATTORNEY AND CLIENT* ¶30.5(2).
- 2268. Combinations, pools, and associations.

IX. CORPORATE POWERS AND LIABILITIES.(Cont'd)

- 2269. Partnerships and joint ventures.
- 2270. Agencies.
- 2271. Trusts.
- 2272. Mode of action in general.
- 2273. Necessity for use of seal.
- 2274. Effect of ultra vires acts.
- 2275. Ratification of unauthorized acts.
- 2276. Persons entitled to question corporate powers.
- 2277. — In general.
- 2278. — Persons interested in or damaged by act complained of.
- 2279. — Private citizens or state.
- 2280. — Corporation or shareholders or members.
- 2281. — Creditors or debtors.
- 2282. Estoppel to deny corporate powers.
- 2283. — In general.
- 2284. — Estoppel of corporation.
 - (1). In general.
 - (2). By receiving or retaining benefits.
 - (3). By knowledge or acquiescence.
- 2285. — Estoppel of shareholders or members.
- 2286. — Estoppel of directors, officers, or agents.
- 2287. — Estoppel of third parties.
- 2288. Regulation and supervision.
- 2289. — In general.
- 2290. — Legislative regulation.
- 2291. — Judicial supervision.
- 2292. — Visitation and supervision by public officials in general.
- 2293. — Access of public to corporate books and records.
- 2294. — Penalties for wrongful acts or omissions.

(B) REPRESENTATION OF CORPORATION BY CORPORATE PRINCIPALS.

- 2300. In general.
- 2301. Application of principle of agency to corporations.
- 2302. — In general.
- 2303. — Corporation acts through officers or agents.
- 2304. — Acting within scope of employment or authority.

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IX. CORPORATE POWERS AND LIABILITIES.(Cont'd)

- 2305. Who may represent corporation.
- 2306. — In general.
- 2307. — Vice principals in general.
- 2308. — Directors, officers, or agents in general.
- 2309. — Directors, officers, or agents acting as individuals or shareholders.
- 2310. — Persons holding entire or controlling stock.
- 2311. Actual or express authority in general.
- 2312. Apparent or implied authority.
- 2313. — In general.
- 2314. — To manage or conduct corporate business in general.
- 2315. — To contract.
- 2316. — To make or deal with negotiable instruments.
- 2317. — To do acts respecting loans, mortgages, indebtedness, or finances.
- 2318. — To make purchases or sales.
- 2319. — To make other particular transactions.
- 2320. Restriction of authority.
- 2321. Representation of different corporations or of corporation and individual by same person.
- 2322. Use of corporate or individual name.
- 2323. Use of corporate seal.
- 2324. Control and conduct of corporate business in general.
- 2325. Disposition of corporate property in general.
- 2326. — In general.
- 2327. — Directors.
- 2328. — President, chief executive officer, or vice president.
- 2329. — Secretary, treasurer, or chief financial officer.
- 2330. Contracts in general.
- 2331. — In general.
- 2332. — Directors.
- 2333. — President, chief executive officer, or vice president.
- 2334. — Secretary, treasurer, or chief financial officer.
- 2335. — General or managing agent.
- 2336. Contracts of employment.
- 2337. — In general.

IX. CORPORATE POWERS AND LIABILITIES.(Cont'd)

- 2338. — Directors.
- 2339. — President, chief executive officer, or vice president.
- 2340. — Secretary, treasurer, or chief financial officer.
- 2341. — General or managing agent.
- 2342. Transactions concerning corporate stock.
- 2343. Leases.
- 2344. Purchases, sales, and warranties.
- 2345. Collections and payments.
- 2346. Pledging credit of corporation.
- 2347. Borrowing and loaning money.
- 2348. Negotiable instruments in general.
- 2349. — In general.
- 2350. — Directors.
- 2351. — President, chief executive officer, or vice president.
- 2352. — Secretary, treasurer, or chief financial officer.
- 2353. — General or managing agent.
- 2354. — Accommodation paper.
- 2355. Bonds, mortgages, and security agreements.
- 2356. Indemnity, guaranty, and suretyship.
- 2357. Compromises and releases.
- 2358. Submission to arbitration.
- 2359. Conduct of litigation.
- 2360. Confession of judgment.
- 2361. Assignment for benefit of creditors.
- 2362. Representations or admissions.
- 2363. — In general.
- 2364. — Directors.
- 2365. — President, chief executive officer, or vice president.
- 2366. — Secretary, treasurer, or chief financial officer.
- 2367. — General or managing agent.
- 2368. Wrongful acts or omissions.
- 2369. — In general.
- 2370. — Imputed liability in general.
- 2371. — Respondeat superior in general.
- 2372. — Fraud.
- 2373. — Defamation.
- 2374. — Adverse interest.
 - (1). In general.
 - (2). Sole actor.

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IX. CORPORATE POWERS AND LIABILITIES.(Cont'd)

- 2375. Persons entitled to question authority.
- 2376. Estoppel to deny authority or acts in general.
- 2377. — In general.
- 2378. — Estoppel of persons dealing with corporate principals.
- 2379. — Estoppel of corporate principals.
- 2380. — Knowledge or notice.
- 2381. — Estoppel to deny authority held out or apparently within scope of agency.
- 2382. — Estoppel of corporation by acts or declarations.
- 2383. — Ultra vires or unlawful acts.
- 2384. Ratification and repudiation.
- 2385. — In general.
- 2386. — Authority to ratify or repudiate.
- 2387. — Rescission or repudiation.
- 2388. — By assent of shareholders or directors.
- 2389. — Necessity of formal act.
- 2390. — Vote or formal action by shareholders or directors.
- 2391. — By acquiescence, recognition, or adoption of transaction.
- 2392. — By laches.
- 2393. — By accepting or retaining benefits.
- 2394. — Knowledge or notice of facts to support a ratification.
- 2395. Rights acquired by corporation.
- 2396. Knowledge of or notice to corporate principal as affecting corporation.
- 2397. — In general.
- 2398. — Collective knowledge in general.
- 2399. — Tortious acts.
- 2400. — Matters within scope of agency or employment.
- 2401. — Knowledge of or notice to particular corporate principals.
 - (1). In general.
 - (2). Shareholders, members, or incorporators in general.
 - (3). Controlling shareholders.
 - (4). Directors.
 - (5). Officers in general.
 - (6). President, chief executive officer, or administrative officer.

IX. CORPORATE POWERS AND LIABILITIES.(Cont'd)

- (7). Subordinate agents or mere employees.
- 2402. — Knowledge of or notice to principal not acquired in representative capacity.
- 2403. — Knowledge derived from principal's individual interest or business.
- 2404. — Adverse interest.
 - (1). In general.
 - (2). Sole actor.
- 2405. — Knowledge or notice of principal's own fraud.
- 2406. Knowledge or notice to person dealing with corporation of authority of principal.
- 2407. Individual interest of principal as affecting person dealing with corporation.
- 2408. Undisclosed agency for corporation.
- 2409. — In general.
- 2410. — Duty to disclose.
- 2411. — Personal liability of undisclosed agent.
- (C) PROPERTY AND CONVEYANCES.**
- 2420. In general.
- 2421. Capacity to acquire and hold property in general.
- 2422. Restrictions as to real property.
- 2423. — In general.
- 2424. — Farming and ranching.
- 2425. — Limitations as to time or value.
- 2426. Mode of acquiring property.
- 2427. Conveyances to or for corporation.
- 2428. Title or interest acquired by corporation.
- 2429. Power of corporation to convey in general.
- 2430. Power to mortgage or pledge.
- 2431. Conveyances by corporation.
- 2432. — In general.
- 2433. — Authority to make.
- 2434. — Form and requisites.
- 2435. — Execution.
- 2436. — Construction and operation.
- 2437. Effect of conveyances and transactions ultra vires.

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(D) CONTRACTS AND INDEBTEDNESS.

- 2440. In general.
- 2441. Capacity to contract in general.
- 2442. Restrictions of power to contract.
- 2443. Limitation on amount of indebtedness.
- 2444. Implied contracts.
- 2445. Formal requisites in general.
- 2446. Use of corporate name.
- 2447. Necessity of writing.
- 2448. Contracts under seal.
- 2449. Contracts of employment.
- 2450. Purchases by corporation.
- 2451. Sales by corporation.
- 2452. Leases.
- 2453. Borrowing money.
- 2454. Loaning money.
- 2455. Taking notes, bonds, mortgages, or other securities.
- 2456. Making and indorsement of negotiable instruments.
- 2457. — In general.
- 2458. — Authority to make or indorse.
- 2459. — Form, requisites, and validity.
- 2460. — Indorsement and transfer.
- 2461. — Accommodation paper.
- 2462. Making and issuance of bonds, debentures, certificates, and indentures.
- 2463. — In general.
- 2464. — Authority to issue.
- 2465. — Nature of obligation.
- 2466. — Form, requisites, and validity.
- 2467. — Construction, operation, and effect in general.
- 2468. — Indenture trustee.
- 2469. — Negotiation and sale.
- 2470. — Rights and remedies of holders.
 - (1). In general.
 - (2). Convertibility.
 - (3). Actions.
- 2471. — Pledges.
- 2472. Mortgages and trust deeds by corporation.
- 2473. — In general.
- 2474. — Nature and essentials as security.
 - (1). In general.
 - (2). What constitutes mortgage.
 - (3). Consideration.
- 2475. — Form, requisites, and validity.
 - (1). In general.

IX. CORPORATE POWERS AND LIABILITIES. (Cont'd)

- (2). Order or resolution authorizing.
- (3). By whom executed.
- (4). Seal.
- (5). Affidavit of good faith.
- (6). Consent or ratification of shareholders.
- (7). Delivery.
- (8). Right to question or attack.
- 2476. — Construction and operation in general.
- 2477. — Rights, duties, and liabilities of mortgagees and trustees.
- 2478. — Lien and priority.
- 2479. — Assignment, payment, discharge, release, and satisfaction.
- 2480. — Foreclosure by exercise of power of sale.
- 2481. — Foreclosure by action.
 - (1). In general.
 - (2). Nature and form of remedy.
 - (3). Right of action and defenses.
 - (4). Persons entitled to sue; standing.
 - (5). Parties.
 - (6). Pleading.
 - (7). Evidence.
 - (8). Trial.
 - (9). Judgment or decree.
 - (10). Sale or disposition of proceeds.
 - (11). Costs and attorney fees.
- 2482. — Redemption.
- 2483. Liens for debts of corporation.
- 2484. Indemnity, guaranty, and suretyship.
- 2485. — In general.
- 2486. — Pledging credit.
- 2487. — Indemnity.
- 2488. — Guaranty.
- 2489. — Suretyship.
- 2490. Assumption of pre-existing debts.
- 2491. Sinking funds.
- 2492. Rights and liabilities on contracts and securities ultra vires.
- 2493. — In general.
- 2494. — Notes.
- 2495. — Mortgages.
- 2496. — Bonds.

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(E) TORTS.

- 2500. In general.
- 2501. Nature and ground of corporate liability.
- 2502. Exercise of power conferred by charter.
- 2503. Ultra vires acts.
- 2504. Willful or malicious act.
- 2505. Negligence.
- 2506. Fraud.
- 2507. Exemplary damages.

(F) CIVIL ACTIONS.

- 2520. In general.
- 2521. Capacity of corporation to sue and be sued in general.
- 2522. — In general.
- 2523. — Depending upon compliance with statutory requirements.
- 2524. Constitutional and statutory provisions.
- 2525. Nature and form.
- 2526. Jurisdiction.
- 2527. Venue.
- 2528. — In general.
- 2529. — Place of accrual of right of action.
- 2530. — Change of venue.
- 2531. — Waiver of objections.
- 2532. Time to sue; limitations and laches.
- 2533. Use of corporate name.
- 2534. — In general.
- 2535. — Misnomer.
- 2536. — Trade name.
Use as trademark, see TRADEMARKS.
- 2537. Persons entitled to sue; standing.
- 2538. Parties.
- 2539. Process and notice.
- 2540. — In general.
- 2541. — Necessity, form, and requisites.
 - (1). In general.
 - (2). Name on form.
 - (3). Issuance for service in another county.
- 2542. — Place and time for service.
- 2543. — Mode of service in general.
- 2544. — What officer or agent should or may be served.
 - (1). In general.
 - (2). Authority or capacity of person served in general.
 - (3). "Managing agent".
 - (4). Subordinate officer or agent.

IX. CORPORATE POWERS AND LIABILITIES.(Cont'd)

- (5). Service after expiration of term, resignation, or failure to elect officers.
- (6). Officer or agent adversely interested.
- (7). Parent or subsidiary.
- 2545. — Necessity and sufficiency of service in general.
- 2546. — Substituted or constructive service.
 - (1). In general.
 - (2). Service by publication.
 - (3). Service by mail.
 - (4). Service on secretary of state or other public official.
- 2547. — Requisites and sufficiency of return of service.
- 2548. — Objections to service and waiver thereof.
- 2549. — Motions to set aside service.
- 2550. Appearance.
Representation by attorney, see ATTORNEY AND CLIENT §12(6).
- 2551. Attachment.
- 2552. — In general.
- 2553. — Grounds for attachment.
- 2554. — Proceedings to procure attachment.
- 2555. — Vacation of attachment.
- 2556. Garnishment.
- 2557. — In general.
- 2558. — Service.
- 2559. — Answer.
- 2560. Receiver.
- 2561. Pleading.
- 2562. — In general.
- 2563. — Requisites and sufficiency in general.
- 2564. — Allegations and denial of corporate existence.
 - (1). In general.
 - (2). In action by corporation.
 - (3). In action against corporation.
 - (4). Allegations as to termination and forfeiture.
- 2565. — Execution of contracts and breach thereof.
- 2566. — Wrongful acts in general.

101. CORPORATIONS AND BUSINESS ORGANIZATIONS

IX. CORPORATE POWERS AND LIABILITIES.(Cont'd)

- 2567. — Authority of officers and agents.
- 2568. — Admissions.
- 2569. — Defense of ultra vires.
- 2570. — Amended and supplemental pleadings.
- 2571. — Signature, verification, and accompanying affidavits.
- 2572. — Issues, proof, and variance.
 - (1). In general.
 - (2). Corporate existence.
- 2573. Evidence in general.
- 2574. — In general.
- 2575. — Presumptions and burden of proof.
- 2576. — Admissibility.
- 2577. — Weight and sufficiency.
- 2578. Evidence as to corporate powers.
- 2579. — In general.
- 2580. — Presumptions and burden of proof.
- 2581. — Admissibility.
- 2582. — Weight and sufficiency.
- 2583. Evidence as to authority of corporate principals.
- 2584. — In general.
- 2585. — Presumptions.
 - (1). In general.
 - (2). From customary duties or acts or nature of office.
 - (3). From regularity or manner of execution of corporate instrument.
 - (4). From use of seal.
- 2586. — Burden of proof.
- 2587. — Admissibility.
 - (1). In general.
 - (2). Acts or declarations of corporation.
 - (3). Acts or declarations of or instruments executed by principal.
 - (4). Bylaw provisions or resolutions.
 - (5). Custom or usage as to authority of particular principals.
 - (6). Ratification.
- 2588. — Weight and sufficiency.
 - (1). In general.
 - (2). Acts or declarations of corporation.
 - (3). Acts or declarations of principals.

IX. CORPORATE POWERS AND LIABILITIES.(Cont'd)

- (4). Contracts or instruments executed by principals.
- (5). Bylaw provisions or resolutions.
- (6). Custom or usage as to authority of particular principal.
- (7). Ratification.
- 2589. Dismissal and nonsuit.
- 2590. Trial.
- 2591. Questions of law or fact.
- 2592. — In general.
- 2593. — As to corporate powers.
- 2594. — As to authority of corporate principals.
 - (1). In general.
 - (2). Ratification.
- 2595. Damages or amount of recovery.
- 2596. Judgment or decree.
- 2597. Execution and enforcement of judgment.
- 2598. Costs and attorney fees.

(G) CRIMES AND PROSECUTIONS.

- 2610. In general.
- 2611. Nature and grounds of corporate responsibility.
- 2612. — In general.
- 2613. — Acts or omissions of officers and agents.
- 2614. Felonies and misdemeanors.
- 2615. Acts or omissions constituting offenses.
- 2616. Prosecutions.
- 2617. — In general.
- 2618. — Jurisdiction.
- 2619. — Process and appearance.
- 2620. — Preliminary examination.
- 2621. — Indictment or information.
- 2622. — Evidence.
- 2623. — Trial.
- 2624. — Sentencing and punishment.

X. MERGERS, ACQUISITIONS, AND REORGANIZATIONS.

(A) IN GENERAL.

- 2630. In general.
- 2631. Authority to effectuate transaction.
- 2632. Duties of directors and officers in general; business judgment rule.

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X. MERGERS, ACQUISITIONS, AND REORGANIZATIONS.(Cont'd)

- 2633. Agreements for transaction.
- 2634. Execution.
- 2635. Assent of shareholders.
- 2636. Rights and remedies of, and actions by, dissenting shareholders.
- 2637. Construction and operation in general.
- 2638. Assumption of or succession to transferor's liabilities.
- 2639. — In general.
- 2640. — Exceptions to successor non-liability.
 - (1). In general.
 - (2). De facto merger.
 - (3). Mere continuation.
 - (4). Continuity of enterprise.
 - (5). Product line exception.
- 2641. — Particular debts and liabilities.
 - (1). In general.
 - (2). Contracts.
 - (3). Torts.
 - (4). Liabilities based on statutory provisions.

(B) MERGERS AND CONSOLIDATIONS.

- 2650. In general.
- 2651. Power to merge or consolidate.
- 2652. Distinction between merger and consolidation.
- 2653. Short form merger.
- 2654. Duties of directors and officers in general; business judgment rule.
- 2655. Agreements for merger or consolidation.
- 2656. — In general.
- 2657. — Requisites and validity.
- 2658. — Performance or breach.
- 2659. — Construction, operation, and effect.
- 2660. — Warranties and representations.
- 2661. Assent of shareholders.
- 2662. — In general.
- 2663. — Disclosure of information in general.
- 2664. — Fraud in obtaining consent.
- 2665. — Meeting and voting.
- 2666. Rights and remedies of, and actions by, dissenting shareholders.
- 2667. — In general.

X. MERGERS, ACQUISITIONS, AND REORGANIZATIONS.(Cont'd)

- 2668. — Fairness of transaction.
- 2669. — Good faith and fiduciary duties.
- 2670. — Payment of value of stock.
- 2671. — Proceedings for appraisal.
 - (1). In general.
 - (2). Exclusive remedy.
 - (3). Right to appraisal and conditions precedent; notice.
 - (4). Decision and award.
 - (5). Costs and attorney fees.
- 2672. Proceedings for merger or consolidation.
- 2673. Operation and effect of merger or consolidation.
- 2674. — In general.
- 2675. — Status of original and surviving corporations.
- 2676. — Right to stock in surviving corporation.
- 2677. — Franchises and powers of surviving corporation.
- 2678. — Succession to rights of original corporations.
- 2679. — Liability of surviving corporation for debts or acts of original corporations.
 - (1). In general.
 - (2). Debts in general.
 - (3). Contracts.
 - (4). Torts.
 - (5). Bonds, mortgages, and liens.
 - (6). Liabilities based on statutory provisions.
 - (7). Crimes.
- 2680. Actions by or against surviving corporation.
- 2681. — In general.
- 2682. — Jurisdiction and venue.
- 2683. — Persons entitled to sue; standing.
- 2684. — Time to sue; limitations and laches.
- 2685. — Pleading.
- 2686. — Evidence.
- 2687. — Trial and judgment.
- 2688. — Damages or amount of recovery.
- 2689. — Costs and attorney fees.

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(C) SALE, LEASE, OR EXCHANGE OF SUBSTANTIALLY ALL CORPORATE ASSETS.

- 2700. In general.
- 2701. Authority to effectuate transaction.
- 2702. Duties of directors and officers in general; business judgment rule.
- 2703. Form and requisites in general.
- 2704. Letter of intent.
- 2705. Agreements to sell, lease, or exchange.
- 2706. — In general.
- 2707. — Requisites and validity.
- 2708. — Performance or breach.
- 2709. — Construction, operation, and effect.
- 2710. — Warranties and representations.
- 2711. Assent of shareholders.
- 2712. — In general.
- 2713. — Disclosure of information in general.
- 2714. — Fraud in obtaining consent.
- 2715. — Meeting and voting.
- 2716. Rights and remedies of, and actions by, dissenting shareholders.
- 2717. — In general.
- 2718. — Payment of value of stock.
- 2719. — Proceedings for appraisal.
- 2720. Execution.
- 2721. Assumption of or succession to transferor's debts and liabilities.
- 2722. — In general.
- 2723. — Exceptions to successor non-liability.
 - (1). In general.
 - (2). De facto merger.
 - (3). Mere continuation.
 - (4). Continuity of enterprise.
 - (5). Product line exception.
- 2724. — Particular debts and liabilities.
 - (1). In general.
 - (2). Contracts.
 - (3). Torts.
 - (4). Liabilities based on statutory provisions.
- 2725. Actions.
- 2726. — In general.
- 2727. — Jurisdiction and venue.
- 2728. — Persons entitled to sue; standing.
- 2729. — Time to sue; limitations and laches.

X. MERGERS, ACQUISITIONS, AND REORGANIZATIONS. (Cont'd)

- 2730. — Parties.
 - 2731. — Pleading.
 - 2732. — Evidence.
 - 2733. — Trial and judgment.
 - 2734. — Damages or amount of recovery.
 - 2735. — Costs and attorney fees.
- ### (D) SALE OR TRANSFER OF ALL OR CONTROLLING INTEREST OF STOCK.
- 2740. In general.
 - 2741. Authority or right to sell or transfer stock.
 - 2742. — In general.
 - 2743. — Duties to, rights and remedies of, and actions by, dissenting shareholders.
 - 2744. What law governs.
 - 2745. Letter of intent.
 - 2746. Tender offer.
 - 2747. Agreements to purchase or sell stock.
 - 2748. — In general.
 - 2749. — Requisites and validity in general.
 - 2750. — Fraud and misrepresentation.
 - 2751. — Performance or breach.
 - 2752. — Construction, operation, and effect in general.
 - 2753. — Warranties and agreements to repurchase.
 - 2754. Assignment and transfer of shares.
 - 2755. Transfer of shares as affecting property, rights and liabilities of corporation.
 - 2756. Actions.
 - 2757. — In general.
 - 2758. — Conditions precedent to action or defense.
 - 2759. — Jurisdiction and venue.
 - 2760. — Persons entitled to sue; standing.
 - 2761. — Time to sue; limitations and laches.
 - 2762. — Parties.
 - 2763. — Pleading.
 - 2764. — Evidence.
 - 2765. — Trial and judgment.
 - 2766. — Rescission.
 - 2767. — Damages or amount of recovery.
 - 2768. — Costs and attorney fees.

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(E) REORGANIZATIONS.

- 2770. In general.
- 2771. Reincorporation in general.
- 2772. Conversion of corporation from or into other type of business entity.
- 2773. Right of purchasers of corporate franchise and property to reorganize.
- 2774. Agreements to reorganize.
- 2775. — In general.
- 2776. — Requisites and validity.
- 2777. — Modification or rescission.
- 2778. — Construction and operation.
- 2779. Assent of shareholders.
- 2780. Rights and remedies of, and actions by, dissenting shareholders.
- 2781. Proceedings for reorganization.
- 2782. Right to stock in reorganized corporation.
- 2783. Rights of shareholders to property of original corporation.
- 2784. Rights, status, and identity of original and reorganized corporations.
- 2785. Succession to powers and rights of original corporation.
- 2786. Liabilities for debts and acts of original corporation.
- 2787. — In general.
- 2788. — Debts in general.
- 2789. — Contracts in general.
- 2790. — Bonds, mortgages, and liens.
- 2791. — Torts.
- 2792. — Judgments.
- 2793. Actions by or against reorganized corporation.

(F) SPIN-OFFS, SPLIT-OFFS, AND CORPORATE DIVISIONS.

- 2800. In general.
- 2801. Authority to effectuate transaction.
- 2802. Requisites and validity.
- 2803. Assent of shareholders.
- 2804. Rights and remedies of, and actions by, dissenting shareholders.
- 2805. Proceedings for transaction.
- 2806. Rights and liabilities of original and resulting corporations.
- 2807. Actions.

(G) ANTI-TAKEOVER MEASURES AND DEVICES.

- 2810. In general.

X. MERGERS, ACQUISITIONS, AND REORGANIZATIONS.(Cont'd)

- 2811. Constitutional and statutory provisions.
- 2812. Fiduciary duties of directors and officers.
- 2813. — In general.
- 2814. — Actions by minority shareholders; judicial scrutiny.
- 2815. Control share acquisitions.
- 2816. Validity of provisions in articles of incorporation or bylaws.
- 2817. Poison pills.
- 2818. Lockups.
- 2819. Actions.

XI. INSOLVENCY AND RECEIVERS.

(A) INSOLVENCY IN GENERAL.

- 2830. In general.
- 2831. What constitutes corporate insolvency.
- 2832. Application of general insolvency laws.
- 2833. Constitutional and statutory provisions.
- 2834. Evidence of insolvency.
- 2835. Trust fund doctrine in general.

(B) FRAUDULENT CONVEYANCES AND PREFERENCES.

- 2840. In general.
- 2841. Conveyances when insolvent or in contemplation of insolvency.
- 2842. — In general.
- 2843. — Trust fund doctrine.
- 2844. — After refusing payment of debt.
- 2845. — Transfer to or for the benefit of directors, officers, or shareholders.
- 2846. — Transfer to another corporation having same directors, officers, or shareholders.
- 2847. — Transfer to trustee to secure or pay debts.
- 2848. — Bona fide purchasers.
- 2849. Preferences to creditors in general.
- 2850. — In general.
- 2851. — Trust fund doctrine.
- 2852. — In due course of business.
- 2853. — Promoting suits or attachments and confessing judgment.
- 2854. — Intent to prefer or secure preference.
- 2855. — Security.

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XI. INSOLVENCY AND RECEIVERS.(Cont'd)

- 2856. Preferences to directors, officers, or shareholders.
- 2857. — In general.
- 2858. — Trust fund doctrine.
- 2859. — Right to give or secure in general.
- 2860. — Vote or resolution authorizing preference.
- 2861. — Promoting suits or attachment and confessing judgment.
- 2862. — Payments to protect from personal liability.
- 2863. — Preference for debt for which director, officer, or shareholder is surety, guarantor, or indemnitor.
- 2864. — Preference to corporation having same directors, officers, or shareholders.
- 2865. — Preference to relative of director, officer, or shareholder.
- 2866. — Operation and effect.
- 2867. Remedies of shareholders or members in general.

(C) CREDITORS' REMEDIES IN GENERAL.

- 2870. In general.
- 2871. Sequestration and statutory remedies in lieu thereof.
- 2872. Attachment.
- 2873. As to fraudulent or preferential transfers.
- 2874. Creditors' suits.
- 2875. — In general.
- 2876. — Nature and scope of remedy.
- 2877. — Right to remedy.
- 2878. — Conditions precedent.
- 2879. — Persons entitled to sue; standing.
- 2880. — Jurisdiction.
- 2881. — Time to sue; limitations and laches.
- 2882. — Rights acquired by suit.
- 2883. — Parties.
- 2884. — Pleading.
- 2885. — Evidence.
- 2886. — Judgment or decree.
- 2887. — Costs and attorney fees.
- 2888. Assignment for benefit of creditors.
- 2889. — In general.
- 2890. — Right to make.
- 2891. — Requisites and validity in general.

XI. INSOLVENCY AND RECEIVERS.(Cont'd)

- 2892. — Assent of shareholders.
- 2893. — Preferences.
- 2894. — Fraud.
- 2895. — Operation and effect.
- 2896. — Removal of assignee and appointment of receiver.
- 2897. — Rights and remedies of creditors.
- 2898. — Powers and proceedings of assignee.

(D) RECEIVERSHIP.

- 2910. In general.
- 2911. Appointment of receiver.
- 2912. — In general.
- 2913. — Grounds.
 - (1). In general.
 - (2). Discretion of court.
 - (3). Insolvency and preference of creditors.
 - (4). Assignment for benefit of creditors.
 - (5). Dissensions as to management.
 - (6). Mismanagement, maladministration, or diversion of assets.
 - (7). Failure to collect debts.
 - (8). Misconduct of directors.
 - (9). No assets to administer.
- 2914. — Conditions precedent.
- 2915. — Proceedings for appointment.
 - (1). In general.
 - (2). Nature of proceedings.
 - (3). Jurisdiction and venue.
 - (4). Parties on application.
 - (5). Pleading.
 - (6). Evidence.
 - (7). Notice and hearing.
 - (8). Scope of inquiry or relief.
 - (9). Costs and attorney fees.
- 2916. — Appointment, qualification, and tenure.
- 2917. — Compensation.
- 2918. — Termination.
- 2919. — Operation and effect.
 - (1). In general.
 - (2). Collateral attack.
 - (3). On rights and franchises of corporation.
 - (4). On authority of officers.

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XI. INSOLVENCY AND RECEIVERS.(Cont'd)

- (5). On rights and remedies of creditors.
- (6). On suits by or against corporation.
- 2920. Powers, duties and liabilities of receiver.
- 2921. — In general.
- 2922. — Representing creditors and shareholders.
- 2923. — Representing corporation.
- 2924. — Title to and possession of property.
- 2925. — Sale of franchises and property.
- 2926. — Setting aside or vacating judgments against corporation.
- 2927. Actions by or against receivers.
- 2928. — In general.
- 2929. — Conditions precedent.
- 2930. — Jurisdiction and venue.
- 2931. — Time to sue; limitations and laches.
- 2932. — Parties.
- 2933. — Pleading.
- 2934. — Evidence.
- 2935. — Trial and judgment.
- 2936. — Costs and attorney fees.

(E) COLLECTION OF ASSETS, ENFORCEMENT OF LIABILITIES, AND PAYMENT OF CLAIMS.

- 2940. In general.
- 2941. Collection of assets in general.
- 2942. — In general.
- 2943. — Rights as to fraudulent conveyances.
- 2944. — Right to avoid contracts and conveyances.
- 2945. Collection of unpaid subscriptions.
- 2946. — In general.
- 2947. — Right to enforce liability.
- 2948. — Call or assessment.
- 2949. Enforcement of liabilities of corporate principals.
- 2950. — In general.
- 2951. — Promoters.
- 2952. — Directors.
- 2953. — Officers.
- 2954. — Shareholders.
- 2955. Enforcement of rights of shareholders.
- 2956. Presentation and allowance of claims.
- 2957. — In general.

XI. INSOLVENCY AND RECEIVERS.(Cont'd)

- 2958. — Claims provable.
- 2959. — Amount.
- 2960. — Necessity and sufficiency of presentation.
- 2961. — Time for presentation.
- 2962. — Proof of claim.
- 2963. — Objections and proceedings thereon.
- 2964. — Allowance or disallowance.
- 2965. — Effect of proof of claim.
- 2966. Priorities of claims.
- 2967. — In general.
- 2968. — Compensation and expenses of receiver.
- 2969. — Judgment creditors.
- 2970. — Bondholders and mortgagees.
- 2971. — Attorneys and other professionals.
- 2972. — Directors, officers and agents.
- 2973. — Shareholders.
- 2974. — Employees.
- 2975. — Mechanics' liens.
- 2976. Set-offs of or against claims.
- 2977. Payment or distribution.
- 2978. Actions by or against insolvent corporation.

XII. DISSOLUTION AND FORFEITURE OF FRANCHISE.

(A) IN GENERAL.

- 2990. In general.
- 2991. Constitutional and statutory provisions.
- 2992. Causes and grounds.
- 2993. — In general.
- 2994. — Invalid or fraudulent corporation.
- 2995. — Limitation of term.
- 2996. — Failure to file annual report or pay fee.
- 2997. — Condition or contingency prescribed by charter or articles of incorporation.
- 2998. — Nonuser or surrender of franchise.
- 2999. — Misuse of franchise or powers.
- 3000. — Exercise of franchise or power not conferred.
- 3001. — Violation of charter or statute.

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XII. DISSOLUTION AND FORFEITURE OF FRANCHISE.(Cont'd)

- 3002. — Deficiency of shareholders, members, or officers.
- 3003. — Director or shareholder deadlock.
- 3004. — Failure of purpose of incorporation.
- 3005. — Transfer of franchise.
- 3006. — Loss or transfer of capital or property.
- 3007. — Insolvency or nonpayment of debts.
- 3008. — Suspension of business.
- 3009. — Interests of shareholders.
- 3010. Defenses and waiver of grounds for dissolution or forfeiture.

(B) PROCEEDINGS FOR DISSOLUTION OR FORFEITURE.

1. IN GENERAL.

- 3020. In general.
- 3021. Necessity of judicial or other proceedings.
- 3022. Jurisdiction and venue.

2. VOLUNTARY DISSOLUTION.

- 3030. In general.
- 3031. Action of shareholders.
- 3032. Petition or application.
- 3033. Notice.
- 3034. Costs and attorney fees.
- 3035. Setting aside dissolution.

3. ADVERSARY OR ENFORCED DISSOLUTION OR FORFEITURE.

- 3040. In general.
- 3041. By or in name of state or public officers.
- 3042. — In general.
- 3043. — Authority or duty to bring proceedings.
- 3044. — Nature and form in general.
- 3045. — Parties.
- 3046. — Information.
- 3047. — Evidence.
 - (1). In general.
 - (2). Presumptions and burden of proof.
 - (3). Admissibility.
 - (4). Weight and sufficiency.

XII. DISSOLUTION AND FORFEITURE OF FRANCHISE.(Cont'd)

- 3048. — Dismissal of proceedings.
- 3049. — Judgment.
- 3050. By shareholders, members, or officers.
- 3051. — In general.
- 3052. — Nature and form of remedy.
- 3053. — Persons entitled to sue; standing.
- 3054. — Parties.
- 3055. — Pleading.
- 3056. — Evidence.
 - (1). In general.
 - (2). Presumptions and burden of proof.
 - (3). Admissibility.
 - (4). Weight and sufficiency.
- 3057. — Dismissal of proceedings.
- 3058. — Election to avoid dissolution by purchasing stock.
 - (1). In general.
 - (2). Valuation of stock.
- 3059. — Judgment, decree, or order.
 - (1). In general.
 - (2). Order to purchase stock.
- 3060. By creditors.
- 3061. — In general.
- 3062. — Nature and form of remedy.
- 3063. — Persons entitled to sue; standing.
- 3064. — Parties.
- 3065. — Pleading.
- 3066. — Evidence.
- 3067. — Judgment or decree.

4. REVIEW.

- 3070. In general.
- 3071. Right to review.
- 3072. Standard and scope of review.

(C) OPERATION AND EFFECT OF DISSOLUTION OR FORFEITURE IN GENERAL.

- 3080. In general.
- 3081. Conveyances and preferences after proceedings for dissolution.
- 3082. Effect of dissolution in general.
- 3083. — In general.
- 3084. — Effect on contracts and rights in general.
- 3085. — Extinguishment of debts.
- 3086. — Effect on judgments.
- 3087. — Effect on pending proceedings.

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**XII. DISSOLUTION AND FORFEITURE
OF FRANCHISE.(Cont'd)**

- 3088. Continuance of corporation for purpose of winding up.
- 3089. — In general.
- 3090. — Prohibition on engaging in new business.
- 3091. — Officers and other trustees.
- 3092. Reinstatement after dissolution or forfeiture.

(D) RECEIVERSHIP.

- 3100. In general.
- 3101. Appointment.
- 3102. — In general.
- 3103. — Grounds for appointment.
- 3104. — Right or authority to appoint.
- 3105. — Who may apply for receiver.
- 3106. — Who may act as receiver.
- 3107. — Order appointing receiver.
- 3108. — Bond.
- 3109. — Pending proceedings for dissolution.
- 3110. — Effect.
- 3111. — Tenure.
- 3112. Powers, duties, and liabilities of receiver in general.
- 3113. — In general.
- 3114. — Sale of franchise and property.
- 3115. — Representing creditors and shareholders.
- 3116. — Actions.
- 3117. — Report and accounting.

**(E) COLLECTION OF ASSETS, ENFORCEMENT OF
LIABILITIES, AND PAYMENT OF CLAIMS.**

- 3120. In general.
- 3121. Collection of assets.
- 3122. Collection of unpaid subscriptions.
- 3123. Enforcement of liabilities of directors, officers, and shareholders.
- 3124. Presentation and allowance of claims.
- 3125. — In general.
- 3126. — Claims provable.
- 3127. — Amount of claim.
- 3128. — Necessity and sufficiency of presentation.
- 3129. — Time for presentation.
- 3130. — Proof of claims.

**XII. DISSOLUTION AND FORFEITURE
OF FRANCHISE.(Cont'd)**

- 3131. — Objections and proceedings thereon.
- 3132. — Allowance or disallowance.
- 3133. Priorities of claims.
- 3134. — In general.
- 3135. — Compensation and expenses of receiver.
- 3136. — Judgment creditors.
- 3137. — Bondholders and mortgagees.
- 3138. — Directors, officers, agents, and shareholders.
- 3139. — Employees.
- 3140. Payment of claims.
- 3141. Distributions to shareholders.
- 3142. — In general.
- 3143. — Liquidating dividend.

**(F) ACTIONS BY OR AGAINST CORPORATION
AFTER DISSOLUTION OR FORFEITURE.**

- 3150. In general.
- 3151. Capacity of corporation to sue and be sued.
- 3152. Jurisdiction and venue.
- 3153. Persons entitled to sue; standing.
- 3154. Time to sue; limitations and laches.
- 3155. Process.
- 3156. Parties.
- 3157. Pleading.
- 3158. Evidence.
- 3159. — In general.
- 3160. — Presumptions and burden of proof.
- 3161. — Admissibility.
- 3162. — Weight and sufficiency.
- 3163. Trial and judgment.
- 3164. Damages or amount of recovery.
- 3165. Costs and attorney fees.

XIII. FOREIGN CORPORATIONS.

(A) IN GENERAL.

- 3170. In general.
- 3171. Grounds of recognition in general.
- 3172. What are foreign corporations.
- 3173. Evidence of incorporation.
- 3174. Domestication in general.
- 3175. Incorporating under foreign laws for business in state of residence.

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XIII. FOREIGN CORPORATIONS.(Cont'd)

- 3176. Power to exclude, restrict, or regulate.
- 3177. Constitutional and statutory provisions.
- 3178. — In general.
- 3179. — Purpose.
- 3180. — Validity.
- 3181. — Retroactive effect.
- 3182. Subjection to general laws and policy of state.
- 3183. — In general.
- 3184. — Comity.
- 3185. Subjection to laws governing domestic corporations.
- 3186. Subjection to requirements as imposed by state of incorporation; what law governs.
- 3187. — In general.
- 3188. — Internal affairs doctrine in general.
- 3189. — Corporate governance in general.
- 3190. — Piercing corporate veil.
- 3191. — Derivative actions.

(B) OBTAINING AUTHORIZATION TO DO BUSINESS.

- 3200. In general.
- 3201. What constitutes doing business in state.
- 3202. — In general.
- 3203. — Soliciting stock subscriptions.
- 3204. — Taking negotiable instruments for goods sold or other consideration.
- 3205. — Contracts not made or to be performed wholly within state.
- 3206. — Transacting business through agents or other representatives.
- 3207. — Consignments or transactions in which the corporation has not the primary or real interest.
- 3208. — Isolated transactions.
- 3209. — Engaging in litigation.
- 3210. Compliance with requirements in general.
- 3211. Filing charter or articles of incorporation.
- 3212. Designation of place of business.
- 3213. Designation of agent.
- 3214. — In general.
- 3215. — For service of process.
- 3216. Deposit of securities.

XIII. FOREIGN CORPORATIONS.(Cont'd)

- 3217. Obtaining license or certificate to do business.
- 3218. — In general.
- 3219. — Name.
- 3220. — Payment of fee.
- 3221. Reports, statements, and examinations.
- 3222. Access to corporate books and records.
- 3223. Expulsion or withdrawal of permission to do business.
- 3224. Penalties for violation of statute.
- 3225. Liabilities of shareholders, directors, officers, and agents for failure to comply with statutory requirements.

(C) OPERATION AND EFFECT OF BEING AUTHORIZED TO DO BUSINESS IN GENERAL.

- 3230. In general.
- 3231. Business or transactions permitted in general.
- 3232. Acquiring, holding, and conveying property.
- 3233. — In general.
- 3234. — Real property.
- 3235. Contracts.
- 3236. — In general.
- 3237. — Right to contract and validity in general.
- 3238. — What law governs.
- 3239. — Complying with statutory requirements and obtaining permission to do business.
 - (1). In general.
 - (2). Filing charter or articles of incorporation.
 - (3). Designation of place of business and agent in general.
 - (4). Designation of agent for service of process.
 - (5). Obtaining license or certificate.
- 3240. Torts.
- 3241. Estoppel.

(D) ACTIONS BY OR AGAINST FOREIGN CORPORATIONS.

- 3250. In general.
- 3251. Remedies on invalid acts in general.
- 3252. Right to sue or defend.
- 3253. — In general.

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XIII. FOREIGN CORPORATIONS.(Cont'd)

3254. — Depending on compliance with statutory requirements.
- (1). In general.
 - (2). Filing charter or articles of incorporation.
 - (3). Designation of place of business and agent in general.
 - (4). Designation of agent for service of process.
 - (5). Obtaining or renewing license or certificate.
 - (6). Making and filing reports and statements.
3255. Liability to be sued.
3256. Nature and form of action.
3257. Jurisdiction.
- Personal jurisdiction over nonresidents, or "long-arm" jurisdiction, see COURTS ¶13.1, FEDERAL COURTS X.*
3258. Venue.
3259. Persons entitled to sue; standing.
3260. Time to sue; limitations and laches.
3261. Parties.
3262. Process.
3263. — In general.
3264. — Exclusiveness of statutes authorizing service on designated persons.
3265. — Form and requisites.
3266. — On whom service may be made.
- (1). In general.
 - (2). Designated or authorized agent.
 - (3). "Principal," "local," "managing," or "head" officer or agent.
 - (4). On agent connected with the cause of action.
 - (5). Officers or agents casually or unofficially within state.
 - (6). Absence or disqualification of officer or designated agent.
 - (7). Subsidiaries and officers thereof.
 - (8). Branch offices.
 - (9). Termination of agency.
 - (10). Sufficiency of authority to receive service.
3267. — Acceptance of service.
3268. — Service on corporation failing to comply with statutory requirements.
3269. — Constructive or substituted service.
- (1). In general.

XIII. FOREIGN CORPORATIONS.(Cont'd)

- (2). Service by publication.
 - (3). Service by mail.
 - (4). Service on secretary of state or other public official.
3270. — Requisites and sufficiency of return of service.
3271. — Consent to mode of service by doing business in state.
3272. — Objections to service.
3273. — Motions to set aside or vacate service.
3274. Appearance.
3275. Attachment and garnishment.
3276. — In general.
3277. — Liability as non-resident to attachment.
3278. — Compliance with statutory requirements as prerequisite.
3279. — Service of writ or notice.
3280. — Persons entitled.
3281. — Property subject to attachment.
3282. — Affidavit, petition, or complaint.
3283. — Jurisdiction.
3284. — Dissolution, quashing, and discharge.
3285. Pleading.
3286. — In general.
3287. — Corporate existence or right to recognition.
3288. — Residence of parties and place where cause of action arose.
3289. — Compliance or non-compliance with statutory requirements.
- (1). In general.
 - (2). Filing of charter or articles of incorporation.
 - (3). Designation of agent and place of business.
 - (4). Obtaining license or certificate.
3290. — Verification.
3291. Evidence.
3292. — In general.
3293. — Presumptions and burden of proof.
3294. — Admissibility.
3295. — Weight and sufficiency.
3296. Trial.
3297. Judgment.

101. CORPORATIONS AND BUSINESS ORGANIZATIONS

XIII. FOREIGN CORPORATIONS.(Cont'd)

- 3298. Execution and enforcement of judgment.
- 3299. Costs and attorney fees.
- 3300. Crimes and criminal prosecutions.

(E) INSOLVENCY AND RECEIVERS.

- 3310. In general.
- 3311. Effect of insolvency in general.
- 3312. Procedure on insolvency.
- 3313. Assignment for benefit of creditors.
- 3314. Protection of resident creditors.
- 3315. Protection of resident shareholders.
- 3316. Receivers.
- 3317. — In general.
- 3318. — Appointment.
- 3319. — Recognition of receiver appointed in home state.
- 3320. — Appointment of ancillary receiver.
- 3321. — Powers and duties of receivers.
- 3322. Claims against insolvent corporations.

(F) MERGERS, REORGANIZATIONS, AND DISSOLUTION.

- 3330. In general.
- 3331. Merger or consolidation of corporations of different states.
- 3332. — In general.
- 3333. — Assent of shareholders.
- 3334. — Remedies of dissenting shareholders.
- 3335. — Effect of merger or consolidation.
- 3336. — Rights and liabilities of surviving corporation.
- 3337. Reorganization.
- 3338. Dissolution.
- 3339. — In general.
- 3340. — Causes and grounds.
- 3341. — Proceedings for dissolution.
- 3342. — Collection of assets, enforcement of liabilities, and payment of claims.
- 3343. — Actions by or against dissolved corporation.

XIV. NON-PROFIT CORPORATIONS.

Charitable corporations, see CHARITIES.

(A) IN GENERAL.

- 3350. In general.
- 3351. Nature of non-profit corporation.

(B) DISREGARDING CORPORATE ENTITY; PIERCING CORPORATE VEIL.

- 3360. In general.
- 3361. Nature of remedy.
- 3362. Reasons and justifications.
- 3363. Particular occasions for determining corporate entity.
- 3364. Actions to pierce corporate veil.

(C) INCORPORATION AND ORGANIZATION.

- 3370. In general.
- 3371. Constitutional and statutory provisions.
- 3372. Incorporators and promoters.
- 3373. Purposes of incorporation.
- 3374. Application and certificate or articles of incorporation.
- 3375. Approval and grant of incorporation.

(D) CORPORATE EXISTENCE AND FRANCHISE.

- 3380. In general.
- 3381. Commencement and duration.
- 3382. Corporate name.
- 3383. Registered office and agent.
- 3384. Bylaws.
- 3385. Books and records.

(E) CAPITAL AND STOCK.

- 3390. In general.
- 3391. Subscription for and issuance of stock.
- 3392. Stock certificates.
- 3393. Transfer of stock.

(F) SHAREHOLDERS AND MEMBERS.

- 3400. In general.
- 3401. Who are shareholders or members.
- 3402. Withdrawal, expulsion, suspension, or exclusion.
- 3403. Rights and liabilities as to corporation and other shareholders or members.
- 3404. — In general.
- 3405. — Management of corporate affairs in general.
- 3406. — Inspection of corporate books and records.
- 3407. — Conflicts of interest and dealing with corporation.

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XIV. NON-PROFIT CORPORATIONS.(Cont'd)

- 3408. — Actions.
- 3409. Meetings.
- 3410. — In general.
- 3411. — Calling and notice.
- 3412. — Quorum and votes required to prevail.
- 3413. — Right to vote.
- 3414. Liability for corporate debts and acts.

(G) DIRECTORS, OFFICERS, AND AGENTS.

- 3420. In general.
- 3421. Eligibility and qualifications.
- 3422. Election of directors.
- 3423. Authority and functions of directors; meetings.
- 3424. Election or appointment of officers.
- 3425. Authority and functions of officers.
- 3426. Rights, duties, and liabilities as to corporation, shareholders, or members.
- 3427. — In general.
- 3428. — Fiduciary nature of relation.
- 3429. — Compensation.
- 3430. — Management of corporate affairs in general.
- 3431. — Conflicts of interest and dealing with corporation, shareholders, or members.
- 3432. — Actions.
- 3433. Liability for corporate debts and acts.

(H) DERIVATIVE ACTIONS; SUING OR DEFENDING ON BEHALF OF CORPORATION.

- 3440. In general.
- 3441. Nature and form of remedy.
- 3442. Persons entitled to sue or defend; standing.
- 3443. Demanding action and refusal of corporation, directors, or officers to act.
- 3444. Pleading, evidence, trial, and judgment.

(I) CORPORATE POWERS AND LIABILITIES.

- 3450. In general.
- 3451. Extent and exercise of powers in general.
- 3452. Representation of corporation by corporate principals.
- 3453. Property and conveyances.
- 3454. Contracts and indebtedness.
- 3455. Torts.

XIV. NON-PROFIT CORPORATIONS.(Cont'd)

- 3456. Civil actions.
- 3457. — In general.
- 3458. — Jurisdiction and venue.
- 3459. — Process and notice.
- 3460. — Parties and appearance.
- 3461. — Pleading, evidence, trial, and judgment.

(J) MERGERS, ACQUISITIONS, AND REORGANIZATIONS.

- 3470. In general.
- 3471. Mergers and consolidations.
- 3472. Sale, lease, or exchange of substantially all corporate assets.
- 3473. Reorganizations.

(K) INSOLVENCY, DISSOLUTION, AND FORFEITURE OF FRANCHISE.

- 3480. In general.
- 3481. Causes and grounds.
- 3482. Proceedings for voluntary dissolution.
- 3483. Adversary or enforced dissolution or forfeiture of franchise.
- 3484. Operation and effect of dissolution or forfeiture of franchise.
- 3485. Receivership.
- 3486. Payment of claims and distribution to shareholders or members.

(L) FOREIGN CORPORATIONS.

- 3490. In general.
- 3491. What law governs.
- 3492. Obtaining authorization to do business.
- 3493. Expulsion or withdrawal of permission to do business.
- 3494. Actions by or against foreign corporations.

XV. UNINCORPORATED BUSINESS ORGANIZATIONS.

Joint ventures, see JOINT VENTURES. Partnerships, see PARTNERSHIP.

(A) IN GENERAL.

- 3500. In general.
- 3501. Sole proprietorships.

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(B) BUSINESS, TRADE, AND PROFESSIONAL ASSOCIATIONS.

Law firms, legal aid organizations, and bar associations, see ATTORNEY AND CLIENT §§30, 30.5, and 31.

- 3510. In general; nature and status.
- 3511. Constitutional and statutory provisions.
- 3512. What law governs.
- 3513. Formation, organization, and existence.
- 3514. Membership.
- 3515. — In general; rights and liabilities.
- 3516. — Judicial supervision and intervention; abstention doctrine.
- 3517. — Admission and exclusion; eligibility.
- 3518. — Withdrawal.
- 3519. — Expulsion, suspension, and discipline.
- 3520. — Reinstatement.
- 3521. — Dues, fines, and assessments.
- 3522. — Meetings.
- 3523. — Rights and liabilities as to other members.
- 3524. — Liability for acts and debts of association.
- 3525. — Actions.
- 3526. Directors, officers, and agents.
- 3527. — In general.
- 3528. — Election or appointment, qualification, and tenure.
- 3529. — Rights, duties, and liabilities; actions.
- 3530. Derivative actions; suing or defending on behalf of association.
- 3531. Powers duties, rights, and liabilities of association.
- 3532. — In general.
- 3533. — Property, funds, and conveyances.
- 3534. — Contracts and indebtedness.
- 3535. — Torts; wrongful acts.
- 3536. — Actions.
 - (1). In general.
 - (2). Right or capacity to sue or be sued.
 - (3). Jurisdiction and venue.
 - (4). Persons entitled to sue; standing.
 - (5). Time to sue; limitations and laches.
 - (6). Parties.
 - (7). Process and appearance.
 - (8). Pleading.

XV. UNINCORPORATED BUSINESS ORGANIZATIONS.(Cont'd)

- (9). Evidence.
- (10). Trial, judgment, and relief.
- 3537. Mergers, acquisitions, and reorganizations.
- 3538. Insolvency, dissolution, and receivers.
- 3539. Foreign associations.
- 3540. Superior, subordinate, and affiliated bodies.
- (C) JOINT STOCK COMPANIES.
- 3550. In general; nature and status.
- 3551. Constitutional and statutory provisions.
- 3552. What law governs.
- 3553. Formation, organization, and existence.
- 3554. Capital and stock.
- 3555. Shareholders and members.
- 3556. — In general; rights and liabilities.
- 3557. — Dues, fines, and assessments.
- 3558. — Meetings.
- 3559. — Rights and liabilities as to other shareholders or members.
- 3560. — Liability for acts and debts of company.
- 3561. — Actions.
- 3562. Directors, officers, and agents.
- 3563. — In general.
- 3564. — Election or appointment, qualification, and tenure.
- 3565. — Rights, duties, and liabilities; actions.
- 3566. Derivative actions; suing or defending on behalf of company.
- 3567. Powers, duties, rights, and liabilities of company.
- 3568. — In general.
- 3569. — Property, funds, and conveyances.
- 3570. — Contracts and indebtedness.
- 3571. — Torts; wrongful acts.
- 3572. — Actions.
- 3573. Mergers, acquisitions, and reorganizations.
- 3574. Insolvency, dissolution, and receivers.
- 3575. Foreign companies.
- 3576. Partnerships issuing stock; partnership associations.

(D) BUSINESS TRUSTS.

- 3580. In general; nature and status.

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XV. UNINCORPORATED BUSINESS ORGANIZATIONS.(Cont'd)

- 3581. Constitutional and statutory provisions.
- 3582. What law governs.
- 3583. Disregarding trust entity; piercing protective veil.
- 3584. Formation, organization, and existence.
- 3585. Capital and stock; certificates or shares.
- 3586. Shareholders and members; beneficiaries.
- 3587. — In general; rights and liabilities.
- 3588. — Dues, fines, and assessments.
- 3589. — Meetings.
- 3590. — Rights and liabilities as to other shareholders, members, or beneficiaries.
- 3591. — Liability for acts and debts of trust.
- 3592. — Actions.
- 3593. Directors, officers, and agents; trustees.
- 3594. — In general.
- 3595. — Election or appointment, qualification, and tenure.
- 3596. — Rights, duties, and liabilities; actions.
- 3597. Derivative actions; suing or defending on behalf of trust.
- 3598. Powers, duties, rights, and liabilities of trust.
- 3599. — In general.
- 3600. — Property, funds, and conveyances.
- 3601. — Contracts and indebtedness.
- 3602. — Torts; wrongful acts.
- 3603. — Actions.
- 3604. Mergers, acquisitions, and reorganizations.
- 3605. Insolvency, dissolution, and receivers.
- 3606. Liquidation; liquidating trusts.
- 3607. Foreign trusts.

(E) LIMITED LIABILITY COMPANIES.

*Limited liability partnerships, see PARTNERSHIP.
Subchapter S corporations, see INTERNAL REVENUE.*

- 3610. In general; nature and status.
- 3611. Constitutional and statutory provisions.
- 3612. What law governs.
- 3613. Disregarding entity; piercing protective veil.
- 3614. — In general.

XV. UNINCORPORATED BUSINESS ORGANIZATIONS.(Cont'd)

- 3615. — Particular occasions for determining entity.
- 3616. — Actions to pierce veil.
 - (1). In general.
 - (2). Pleading.
 - (3). Evidence.
- 3617. Formation, organization, and existence.
- 3618. — In general.
- 3619. — Promoters, founders, and organizers.
- 3620. — Purposes of organization; requisite intent.
- 3621. — Organizing documents; operating agreement.
- 3622. — Validity of organization; de facto existence.
- 3623. — Estoppel to deny existence of company.
- 3624. — Name.
- 3625. — Domicile or place of business; registered office and agent.
- 3626. — Books, records, and reports.
- 3627. Capital and stock; contributions.
- 3628. — In general.
- 3629. — Profits and losses; distributions.
- 3630. — Transfer, pledge, or assignment of interest.
- 3631. — Rights of creditors; charging orders.
- 3632. Members, owners, and shareholders.
- 3633. — In general; rights and liabilities.
- 3634. — Who are members, owners, and shareholders; admission and eligibility.
- 3635. — Dissociation; withdrawal.
- 3636. — Expulsion, suspension, or exclusion.
- 3637. — Rights and liabilities as to other members, owners, or shareholders in general.
- 3638. — Management of company affairs in general.
- 3639. — Fiduciary duties; loyalty, care, and good faith.
- 3640. — Engaging in competing business; usurping opportunities.
- 3641. — Liability for acts and debts of company.

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XV. UNINCORPORATED BUSINESS ORGANIZATIONS.(Cont'd)

- 3642. — Actions.
 - (1). In general.
 - (2). Nature and form of remedy.
 - (3). Jurisdiction and venue.
 - (4). Persons entitled to sue; standing.
 - (5). Time to sue; limitations and laches.
 - (6). Parties.
 - (7). Pleading.
 - (8). Evidence.
 - (9). Trial, judgment, and relief.
 - (10). Costs and attorney fees.
- 3643. Directors, officers, and agents; non-member managers.
- 3644. — In general.
- 3645. — Election or appointment, qualification, and tenure.
- 3646. — Rights, duties, and liabilities.
- 3647. — Actions.
 - (1). In general.
 - (2). Persons entitled to sue; standing: parties.
 - (3). Time to sue; limitations and laches.
 - (4). Pleading.
 - (5). Evidence.
 - (6). Trial, judgment, and relief; costs and attorney fees.
- 3648. Derivative actions; suing or defending on behalf of company.
- 3649. Powers, duties, rights, and liabilities of company.
- 3650. — In general.
- 3651. — Property, funds, and conveyances.
- 3652. — Contracts and indebtedness.
- 3653. — Torts; wrongful acts.
- 3654. — Civil actions.
 - (1). In general.
 - (2). Right or capacity to sue or be sued.
 - (3). Jurisdiction and venue.
 - (4). Persons entitled to sue; standing.
 - (5). Time to sue; limitations and laches.
 - (6). Parties.
 - (7). Process and appearance.
 - (8). Pleading.
 - (9). Evidence.

XV. UNINCORPORATED BUSINESS ORGANIZATIONS.(Cont'd)

- (10). Trial, judgment, and relief.
- 3655. — Crimes and prosecutions.
- 3656. Mergers, acquisitions, and reorganizations.
- 3657. Dissolution and forfeiture.
- 3658. — In general.
- 3659. — Grounds.
- 3660. — Proceedings.
- 3661. — Operation and effect.
 - (1). In general.
 - (2). Reinstatement after dissolution or forfeiture.
- 3662. — Receivership.
- 3663. — Assets, liabilities, claims, and distributions.
- 3664. — Actions by or against company after dissolution or forfeiture.
- 3665. Foreign companies.

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SUBJECTS INCLUDED

Pecuniary allowances made by law to parties prevailing in actions or other proceedings, civil or criminal, as reimbursement or indemnity for their expenses therein, payable by adverse parties or out of the subject-matter of the litigation

Statutory provisions relating to costs

Nature, grounds and extent of the right thereto in general

Who are entitled to costs, and who are liable therefore, as between parties, and discretion of courts to award costs

Security for payment of costs and proceedings in forma pauperis

Proceedings, disbursements, etc., for which costs are allowed, and items, rate and amount of costs

Taxation of costs and review thereof

Payment and remedies for collection of costs

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SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Attorney's agreement as to fees or costs, champerty, see CHAMPERTY AND MAINTENANCE

Damages, attorney's fees and expenses of litigation as elements, see DAMAGES

Federal courts, costs in civil actions, see FEDERAL CIVIL PROCEDURE

Fees and expenses of officers and other persons, rights of such persons themselves as distinguished from liabilities as between parties, see PUBLIC EMPLOYMENT and other specific topics—

Attorneys, see ATTORNEY AND CLIENT

Jurors, see JURY

Witnesses, see WITNESSES

Particular actions or proceedings having special requirements or making special provisions for costs, see ADMIRALTY, DIVORCE, EMINENT DOMAIN, and other specific topics

Particular classes of persons, rights and liabilities in respect to costs, see EXECUTORS AND ADMINISTRATORS, INFANTS and other specific topics

I. NATURE, GROUNDS, AND EXTENT OF RIGHT IN GENERAL, ¶1-77.

II. PERSONS ENTITLED, ¶78-91.

III. PERSONS LIABLE, ¶92-101.

IV. PROPERTY LIABLE, ¶102.

V. FUNDS LIABLE, ¶103-104.

VI. SECURITY FOR COSTS; PROCEEDINGS IN FORMA PAUPERIS, ¶105-145.

VII. AMOUNT, RATE, AND ITEMS, ¶146-194.

VIII. ATTORNEY FEES, ¶194.10-194.50.

IX. TAXATION, ¶195-220.

X. ON APPEAL OR ERROR, ¶221-264.

XI. ON NEW TRIAL OR MOTION THEREFOR, ¶265-266.

XII. PAYMENT, ¶267-272.

XIII. REMEDIES FOR COLLECTION, ¶273-283.

XIV. IN CRIMINAL PROSECUTIONS, ¶284-325.

I. NATURE, GROUNDS, AND EXTENT OF RIGHT IN GENERAL.

1. Nature and grounds of right.

I. NATURE, GROUNDS, AND EXTENT OF RIGHT IN GENERAL.(Cont'd)

2. — In general.

3. — Dependent on statute.

4. Constitutional and statutory provisions.

5. Power to award costs.

6. — In general.

7. — Nature or form of remedy.

8. — Want of jurisdiction.

9. — Authority of court, judge, referee, or jury.

10. Stipulations and agreements.

11. Discretion of court.

12. — In general.

13. — In equity.

15. — In special proceedings.

16. Nature of subject-matter in general.

16.5. Actions for declaratory relief in general.

17. Questions of title to real property.

18. Jurisdiction of courts as to subject-matter.

19. Actions brought originally in inferior courts.

20. Amount or value in controversy.

21. Amount or value of recovery.

22. — In general.

23. — Reduction of claim.

24. — Interest on recovery.

25. — Costs not to exceed recovery.

26. Separate actions.

27. — In general.

28. — On same cause of action.

29. — Joinder or nonjoinder of causes of action.

30. — Failure to set off or counterclaim.

31. — Consolidation.

32. Prevailing or successful party in general.

(1). In general.

(2). Who is prevailing party in general.

(3). Partial success in general.

(4). Recovery of only a portion of land claimed.

(5). Effect of set-off or counterclaim.

33. Separate issues.

34. — In general.

35. — Issues of law and of fact.

36. — Issues of fact.

37. Separate counts or causes of action.

38. Judgment by confession.

39. Judgment by default.

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I. NATURE, GROUNDS, AND EXTENT OF RIGHT IN GENERAL.(Cont'd)

40. Judgment on consent, offer, or admission.
41. Necessity and effect of demand before suit.
42. Admissions, offer of judgment, tender, or payment into court.
 - (.5). In general.
 - (1). Admission or tender in general.
 - (2). Offer of judgment in general.
 - (3). Payment into court.
 - (4). Recovery less favorable than tender or offer.
 - (5). Recovery more favorable than tender or offer.
 - (6). Recovery of sum admitted to be due.
 - (7). Effect of amended complaint after offer of judgment.
 - (8). Tender or offer of judgment before action.
 - (9). Discretion of court.
43. Payment or satisfaction after commencement of action.
44. Compromise or settlement of action.
45. Abatement of action.
46. Abandonment of action.
47. Disclaimer.
48. Dismissal or nonsuit.
49. Demurrer.
50. Failure to demur.
51. Amended or supplemental pleadings.
52. Judgment on motion or summary proceeding.
53. Judgment on verdict or findings.
54. Arrest of judgment and repleader.
55. Judgment after remand by appellate court.
56. In equity.
57. On motions and other interlocutory proceedings.
58. In special proceedings.
59. Apportionment.
60. — In general.
61. — Both parties successful in part.
62. — Separate issues.
63. — Separate counts or causes of action.
64. — Separate actions.
65. Increased costs, and double or treble costs.

I. NATURE, GROUNDS, AND EXTENT OF RIGHT IN GENERAL.(Cont'd)

66. — In general.
67. — Mode of computation.
68. Reduced costs, and half or quarter costs.
69. Costs to abide event.
70. Time of vesting of right.
71. Waiver or loss of right.
72. Award or certificate.
- 72.1. — In general.
73. — Necessity.
74. — Time of making.
75. — Requisites and sufficiency.
76. — Operation and effect.
77. Ownership of costs awarded.

II. PERSONS ENTITLED.

78. Parties of record.
79. — In general.
80. — Nominal and unnecessary parties.
81. — Relators.
82. — Representative or official capacity.
83. — Assignors and assignees.
84. — Interveners.
85. Persons not parties.
86. Joint plaintiffs.
87. — In general.
88. — Separate costs.
89. Joint defendants.
90. — In general.
91. — Separate costs.

III. PERSONS LIABLE.

92. Parties of record.
93. — In general.
94. — Nominal and unnecessary parties.
95. — Relators.
96. — Representative or official capacity.
97. — Assignors and assignees.
98. — Interveners.
99. Persons not parties.
100. Joint plaintiffs.
101. Joint defendants.

IV. PROPERTY LIABLE.

102. In general.

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V. FUNDS LIABLE.

- 103. Funds or estate.
- 104. Deposit in court.

VI. SECURITY FOR COSTS; PROCEEDINGS IN FORMA PAUPERIS.

- 105. Nature and grounds of right in general.
- 106. Statutory provisions.
- 107. Causes in which security may be required.
- 108. Discretion of court.
- 109. Persons or parties from whom security may be required.
 - (5). In general.
 - (1). Real party in interest.
 - (2). Interveners.
 - (3). Public corporations.
 - (4). Infants.
 - (5). Executors or administrators.
 - (6). Assignees, trustees, or receivers.
- 110. Residence as affecting right to require security.
 - (1). In general.
 - (2). What constitutes residence or nonresidence.
 - (3). Residence in state but outside jurisdiction of court.
 - (4). Resident becoming nonresident pending suit.
 - (5). Some of several parties residing in state.
 - (6). Nonresident having property in state.
 - (7). Nonresident's liability as affected by nature of process.
- 111. Form and requisites of application in general.
- 112. Time for application and laches.
 - (1). In general.
 - (2). Before or after plea or answer or issue joined.
 - (3). Case ready for trial, being tried, or tried.
- 113. Parties on application.
- 114. Notice of application.
- 115. Affidavits on application.
- 116. Hearing and determination of application.
- 117. Order as to security.
- 118. Amount of security.

VI. SECURITY FOR COSTS; PROCEEDINGS IN FORMA PAUPERIS.(Cont'd)

- 119. Time for giving security.
 - 120. Bond, undertaking, or recognizance.
 - 120.1. — In general.
 - 121. — Form and contents in general.
 - 122. — Execution.
 - 123. — Approval.
 - 124. — Sufficiency and justification of sureties.
 - 125. Deposit as security.
 - 126. Indorsement of writ or declaration.
 - 127. Action or defense in forma pauperis.
 - 127.1. — In general.
 - 128. — Nature and grounds of right.
 - 129. — Statutory provisions.
 - 130. — Discretion of court.
 - 131. — Persons entitled to sue or defend.
 - 132. — Application and proceedings thereon.
 - (1). In general.
 - (2). Time for making application.
 - (3). Notice of application.
 - (4). Requisites and sufficiency of petition.
 - (5). Proof or showing on application in general.
 - (6). Oath and affidavits.
 - 133. — Order granting or refusing leave.
 - 134. Additional or new security.
 - 135. Objections and exceptions.
 - 136. Waiver of security or of defects.
 - 137. Effect of failure to give security.
 - 138. Liabilities on indorsement of writ.
 - 139. Liabilities on bonds, undertakings, or recognizances.
 - 140. — In general.
 - 141. — Discharge of sureties.
 - 142. — Accrual or release of liability by breach or fulfillment of conditions.
 - 143. — Extent of liability.
 - 144. Summary remedies against sureties.
 - 145. Actions on bonds, undertakings, or recognizances.
- ### VII. AMOUNT, RATE, AND ITEMS.
- 146. Nature and amount of items in general.
 - 147. Fee bills and other statutory provisions.
 - 148. Stipulations and agreements.

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VII. AMOUNT, RATE, AND ITEMS.(Cont'd)

- 149. Proceedings before trial in general.
- 150. Writs and other process.
- 151. Pleadings and proceedings relating thereto in general.
- 152. Demurrers and hearings thereon.
- 153. Motions and other interlocutory proceedings.
- 154. Depositions and affidavits.
Excludes expense of discovery, see ¶193, below.
- 155. Change of venue or other transfer of cause.
- 156. Continuances and term fees.
- 157. Trial fees.
- 158. References.
- 159. Interest on recovery.
- 160. Entry and docketing of judgment.
- 161. Proceedings after judgment.
- 162. Special proceedings.
- 163. Allowances additional to costs.
- 163.1. — In general.
- 164. — Right and grounds in general.
 - (1). In general.
 - (2). Particular actions or proceedings in which allowable.
 - (3). Extraordinary or difficult case.
 - (4). Litigated or defended cases.
 - (5). Nature of subject-matter as furnishing basis for computation of rate.
 - (6). Effect of amount recovered or claimed.
 - (7). Extra allowance as counsel fee.
- 165. — Discretion of court.
- 166. — Application and proceedings thereon.
- 167. — Amount and computation.
- 168. — Order granting or refusing.
- 169. Disbursements in general.
- 170. Taxes on litigation.
- 174. Officers' fees.
 - (1). In general.
 - (2). Clerks of court.
 - (3). Sheriffs and constables.
- 175. Fees or costs of jury.
- 176. Service of process.
- 177. Compensation of guardian ad litem or next friend.
- 178. Demonstrative evidence, experiments, surveys, and views.

VII. AMOUNT, RATE, AND ITEMS.(Cont'd)

- 179. Documentary evidence.
- 180. — In general.
- 181. — Certificates.
- 182. — Copies.
- 183. Witnesses' fees.
- 184. — In general.
 - (1). In general.
 - (2). Witnesses not subpoenaed.
 - (3). Witnesses subpoenaed, but not examined.
 - (4). Witnesses neither subpoenaed nor examined, or tendered for examination.
 - (5). Witnesses attending in other suit.
 - (6). Witnesses whose depositions have been taken.
 - (7). Incompetency of witnesses or immateriality of testimony.
 - (8). Party to suit.
 - (9). Nature of proceeding.
 - (10). Time for which attendance may be taxed.
 - (11). Number of witnesses taxable.
- 185. — Mileage.
- 186. — Compensation additional to fees.
- 187. — Experts.
- 188. Interpreters' fees.
- 189. Stenographers' fees.
- 190. Printing or other reproduction of papers, exhibits, or evidence.
- 191. Referees' and commissioners' fees.
- 192. Receivers' fees.
- 193. Discovery; incidental expenses.
See also ¶154, above.
- 194. Prospective disbursements.

VIII. ATTORNEY FEES.

Awards of attorney fees on appeal or error, see X.

- 194.10. In general.
- 194.12. Discretion of court.
- 194.14. Prevailing party.
- 194.16. American rule; necessity of contractual or statutory authorization or grounds in equity.
- 194.18. Items and amount; hours; rate.
- 194.20. Effect of fee agreement with attorney.
- 194.22. Effect of statutes.
- 194.24. Particular actions or proceedings.
- 194.25. — In general.

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VIII. ATTORNEY FEES.(Cont'd)

- 194.26. — Class actions.
- 194.28. — Injuries to persons.
- 194.30. — Injuries to property.
- 194.32. — Contracts.
- 194.34. — Leases.
- 194.36. — Vendor and purchaser.
Sales of goods, see SALES 2438, 2473, 2519, 2998.
- 194.38. — Accounts.
- 194.40. — Declaratory judgment.
- 194.42. Public interest and substantial benefit doctrine; private attorney general.
- 194.44. Bad faith or meritless litigation.
- 194.46. Persons entitled or liable.
- 194.48. On dismissal, nonsuit, default, or settlement.
- 194.50. Effect of offer of judgment or pretrial deposit or tender.

IX. TAXATION.

- 195. Nature of proceeding.
- 196. Condition of cause.
- 197. Jurisdiction and authority.
- 198. Form and requisites of application in general.
- 199. Time for application.
- 200. Parties.
- 201. Notice.
- 202. Bill of costs, statement, or memorandum.
- 203. — In general.
- 204. — Form and requisites.
- 205. — Affidavit, verification, or certification.
- 206. Objections to taxation or to items.
- 207. Evidence as to items.
- 208. Duties and proceedings of taxing officer.
- 209. Determination of taxing officer.
- 210. Retaxation of costs taxed without notice.
- 211. Remedies for erroneous taxation.
- 212. — In general.
- 213. — Amendment.
- 214. — Motion for retaxation.
- 215. — Appeal to court from decision of taxing officer.
- 216. — Retaxation by court on motion or appeal.
- 217. — Order for new taxation by officer.
- 218. — Proceedings on new taxation.

IX. TAXATION.(Cont'd)

- 219. Objections and exceptions.
- 220. Waiver and correction of irregularities and errors.

X. ON APPEAL OR ERROR.

- 221. Nature and grounds of right.
- 222. Constitutional and statutory provisions.
- 223. Power of appellate court to award costs.
- 224. Discretion of appellate court.
- 225. Appeal or error in general.
- 226. Appeal from interlocutory judgments or from orders.
- 227. Review of decisions of inferior courts or officers.
- 228. Review of decisions of justices of the peace.
- 229. Review of decisions of intermediate courts.
- 230. Prevailing or successful party.
- 231. Recovery of more favorable judgment.
 - (1). In general.
 - (2). Review of decisions of inferior courts or officers.
 - (3). Review of decisions of justices of the peace.
- 232. Dismissal.
- 233. Affirmance.
- 234. Modification.
- 235. Reversal.
- 236. — In general.
- 237. — As to part of judgment or order.
- 238. Acts or omissions of parties affecting right.
 - (1). In general.
 - (2). Failure to raise question in lower court.
 - (3). Effect of remittitur or offer of reduction.
- 239. Persons entitled.
- 240. Persons liable.
- 241. Apportionment of costs on appeal or error.
- 242. Increased or reduced costs.
- 243. Costs on appeal or error to abide event.
- 244. Award or certificate of costs on determination on appeal or writ of error.
- 245. Directions to lower court as to costs.
- 246. Security for costs.
- 246.5. Proceedings in forma pauperis.

102. COSTS

X. ON APPEAL OR ERROR.(Cont'd)

- 247. Amount and items in general.
- 248. Costs before argument on appeal or error.
- 249. Term fees on appeal or error.
- 250. Costs on argument or hearing on appeal or error.
- 251. Disbursements in general.
- 252. Attorney fees on appeal or error.
- 253. Expenses of record, abstract, or transcript on appeal or error.
- 254. — In general.
 - (1). In general.
 - (2). Transcript not used.
 - (3). Where another record exists.
 - (4). Manner of preparing.
 - (5). Transcript of stenographer's minutes.
 - (6). Amount and rate.
- 255. — Defective or confused abstract or transcript.
- 256. — Unnecessary matter or expenditure.
 - (1). In general.
 - (2). What particular matters are unnecessary.
 - (3). Necessity of abbreviating.
 - (4). Apportionment of costs of inserting.
- 257. — Additional or amended abstract or record.
- 258. Expenses of briefs on appeal or error.
- 259. Damages and penalties for frivolous appeal and delay.
- 259.1. — In general.
- 260. — Right and grounds.
 - (1). In general.
 - (2). On dismissal.
 - (3). Failure to prosecute appeal in general.
 - (4). What constitutes frivolous appeal or delay.
 - (5). Nature and form of judgment, action, or proceedings for review.
 - (6). Necessity that appellee be damaged.
 - (6.5). Persons entitled or liable.
 - (7). Waiver or loss of right.
- 261. — Discretion of court.
- 262. — Application and allowance.

X. ON APPEAL OR ERROR.(Cont'd)

- 263. — Amount or rate and computation.
- 264. Taxation of costs on appeal or error.

XI. ON NEW TRIAL OR MOTION THEREFOR.

- 265. Motion for new trial.
- 266. New trial.

XII. PAYMENT.

- 267. In general.
- 268. Time for payment.
- 269. Requisites and sufficiency of payment.
- 270. Set-off against debt, recovery, or other costs.
- 271. Release or remission.
- 272. Recovery of costs paid.

XIII. REMEDIES FOR COLLECTION.

- 273. In general.
- 274. Mode of collection of interlocutory costs or costs on motions.
- 275. Conditions as to payment of past costs on grant of relief or favor.
- 276. Stay of proceedings until payment.
- 277. Stay of subsequent action until payment.
 - (1). In general.
 - (2). New action after nonsuit or discontinuance.
 - (3). Cause of action identical.
 - (4). Difference in form of action.
 - (5). Difference in parties.
 - (6). Suit in another forum.
 - (7). Proceedings to procure stay.
 - (8). Waiver of right to stay.
- 278. Nonpayment as defense to subsequent action.
- 279. Execution or precept.
- 280. Summary remedies.
- 281. Attachment of the person.
- 282. Actions.
- 283. Lien and enforcement thereof.

XIV. IN CRIMINAL PROSECUTIONS.

- 284. In general.
- 285. Constitutional and statutory provisions.
- 286. Power to award costs.
- 287. Discretion of court or jury.
- 288. Rights on conviction.
- 289. Rights on acquittal.

102. COSTS

XIV. IN CRIMINAL PROSECUTIONS.(Cont'd)

- 290. — In general.
- 291. — Joint defendants.
- 292. Liabilities of defendant.
- 293. Liabilities of United States.
- 294. Liabilities of state.
- 295. Liabilities of county.
- 296. Liabilities of city.
- 297. Liabilities of prosecuting witness.
- 298. — In general.
- 299. — Probable cause for prosecution.
- 300. Award or certificate.
- 301. Ownership of costs awarded.
- 301.1. Security for payment; proceedings in forma pauperis.
- 302. — In general.
- 302.1. — Transcript of prior proceedings.
 - (1). In general.
 - (2). Record of preliminary hearing.
 - (3). Record of suppression hearing.
 - (4). Record of prior trial.
 - (5). Daily transcript.
- 302.2. — Production of witnesses or evidence.
 - (1). In general.
 - (2). Expert witnesses or assistance in general.
- 302.3. — Investigative assistance.
- 302.4. — Medical or psychiatric witnesses or assistance.
- 303. Amount and items in general.
- 304. Costs taxable against defendant.
- 305. Costs taxable against prosecution.
- 306. Effect of change of venue or other transfer.
- 307. Disbursements in general.
- 308. Attorney fees.
- 309. Officers' fees.
- 310. Witnesses' fees.
- 311. Jurors' fees.
- 312. Incidental expenses.
- 313. Taxation or allowance of bill.
- 314. — In general.
- 315. — Remedies for erroneous taxation, allowance, or disallowance.
- 316. Judgment for costs.
- 317. Costs on appeal or error.
- 318. Payment.
- 319. Remission.

XIV. IN CRIMINAL PROSECUTIONS.(Cont'd)

- 320. Remedies for collection in general.
- 321. Execution.
- 322. Imprisonment for nonpayment.
- 323. Actions.
- 324. Enforcement against state, county, or city.
- 325. Lien and enforcement thereof.

103. COUNTERFEITING

SUBJECTS INCLUDED

Falsely and fraudulently imitating or altering coin or other money or government obligations or securities

Uttering, having or pretending to have in possession, offering, advertising, etc., such counterfeits

Nature and extent of criminal responsibility therefor

Prosecution and punishment of such acts as public offenses

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Internal revenue stamps, forgery of, see INTERNAL REVENUE

Private persons, forgery of instruments written by, see FORGERY

- 1. Nature and elements of offenses in general.
- 1.1. — In general.
- 2. — Subject-matter imitated or altered.
- 3. — Intent.
- 4. — Similitude.
- 5. — Value of counterfeit.
- 6. Making counterfeits.
- 7. Mutilation or debasement of coins.
- 8. Alteration of obligations or securities.
- 9. Passing or uttering counterfeits.
- 10. Dealing in counterfeit or illegal money or securities.
- 11. Possession of counterfeits.

104. COUNTIES

12. Making or possession of tools, instruments, or materials.
13. Defenses.
14. Jurisdiction.
15. Indictment or information.
 - 15.1. — In general.
16. — Requisites and sufficiency.
17. — Issues, proof, and variance.
18. Evidence.
19. Trial.
21. Sentence and punishment.

104. COUNTIES

SUBJECTS INCLUDED

- Primary territorial divisions of states or territories for political purposes, whether designated as counties or as parishes
- Their status as bodies politic and corporate
- Their creation, organization, boundaries, alteration and discontinuance
- Boards and officers, and their rights, powers, duties, proceedings and liabilities
- County property, contracts, indebtedness, bonds and other securities
- Claims against counties and precincts, etc., thereof
- Actions by or against counties

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

- Charitable and reformatory institutions, see ASYLUMS AND ASSISTED LIVING FACILITIES, HEALTH, INFANTS, PRISONS
- Combined city and county governmental entities, see also MUNICIPAL CORPORATIONS
- County courts, see COURTS
- Election of county officers, see ELECTION LAW
- Judges, including county judges, see JUDGES
- Municipal corporations in general, matters relating to, see MUNICIPAL CORPORATIONS

Officers in general, including civil service requirements, and particular classes of county officers, see PUBLIC EMPLOYMENT, CORONERS, NOTARIES, REGISTERS OF DEEDS, SHERIFFS AND CONSTABLES

County attorneys, see DISTRICT AND PROSECUTING ATTORNEYS

Judges, see JUDGES

Justices of the peace, see JUSTICES OF THE PEACE

Roads and bridges, see HIGHWAYS, BRIDGES

Subdivisions of county other than precincts and divisions for special purposes, see JUSTICES OF THE PEACE, TOWNS

Taxes on income; sales and use taxes, see TAXATION

Highway and school taxes, see HIGHWAYS, EDUCATION

License taxes, see LICENSES

Real property taxes imposed by cities, see MUNICIPAL CORPORATIONS

Zoning by counties, see ZONING AND PLANNING

- I. CREATION, ALTERATION, EXISTENCE, AND POLITICAL FUNCTIONS, ¶1-19.
- II. GOVERNMENT, ¶20-60.
 - (A) ORGANIZATION AND POWERS IN GENERAL, ¶20-24.
 - (B) COUNTY SEAT, ¶25-37.
 - (C) COUNTY BOARD, ¶38-60.
- III. OFFICERS AND AGENTS, ¶61-102.
- IV. PUBLIC BUILDINGS AND OTHER PROPERTY, ¶103-110.
- V. CONTRACTS, ¶111-130.5.
- VI. COUNTY EXPENSES AND CHARGES AND STATUTORY LIABILITIES, ¶131-140.
- VII. TORTS, ¶141-148.5.
- VIII. FISCAL MANAGEMENT, PUBLIC DEBT, AND SECURITIES, ¶149-188.
- IX. TAXATION, ¶189-195.
- X. TAXPAYERS' SUITS OR ACTIONS, ¶196.
- XI. CLAIMS AGAINST COUNTY, ¶197-207.
- XII. ACTIONS, ¶208-228.

104. COUNTIES

I. CREATION, ALTERATION, EXISTENCE, AND POLITICAL FUNCTIONS.

1. Nature and status.
2. Constitutional and statutory provisions.
3. Creation, existence, and incidents in general; charters.
4. De facto counties.
5. Unorganized counties and unorganized territory.
6. Territorial extent and boundaries.
7. — In general.
See also ZONING AND PLANNING.
8. — Establishment of boundaries.
9. Alteration and creation of new counties.
- 9.1. — In general.
10. — Change of boundaries in general.
11. — Consolidation.
12. — Division.
13. — Proceedings.
14. — Submission of question to popular vote.
15. — Operation and effect.
16. — Adjustment of rights and liabilities.
 - (1). In general.
 - (2). Liability in respect to indebtedness, and apportionment thereof.
 - (3). Interest.
 - (4). Enforcement of rights and liabilities.
 - (5). Payment of obligations.
17. Annexation or detachment of territory for special purposes.
18. Precincts and divisions for special purposes.
19. Classification.

II. GOVERNMENT.

(A) ORGANIZATION AND POWERS IN GENERAL.

20. Nature and constitution in general.
- 20.5. Constitutional and statutory provisions.
21. Establishment and organization.
- 21.5. Governmental powers in general.
See also ZONING AND PLANNING.
22. Public improvements.
23. Judicial supervision.
24. Legislative control of acts, rights, and liabilities.

(B) COUNTY SEAT.

25. Power to establish.
26. Constitutional and statutory provisions.
27. Location and establishment.
28. — In general.
29. — Submission of question to popular vote.
30. — Operation and effect.
31. Removal.
32. — In general.
33. — Power to remove.
34. — Proceedings.
 - (1). In general.
 - (2). Form and contents of petition or remonstrance, and signatures thereto.
 - (3). Amendment and withdrawal of signatures.
 - (4). Notice of hearing.
 - (5). Hearing, decision, and review.
35. — Submission of question to popular vote.
 - (1). In general.
 - (2). Qualifications of voters and number of votes required to carry proposition.
 - (3). Canvass and returns and contests.
 - (4). Conclusiveness and effect, and re-submission to electors.
36. — Operation and effect.
37. Change of site of public buildings.

(C) COUNTY BOARD.

38. Nature and constitution in general.
39. Constitutional and statutory provisions.
40. Creation and abolition of boards and transfer of powers.
41. Appointment or election.
42. Eligibility and qualification.
43. Term of office, vacancies, and holding over.
44. Resignation.
45. Removal.
46. Compensation.
47. Powers and functions in general.
48. Supervision of county officers.
49. Mode of action in general.
50. Delegation of authority.
51. Organization.
52. Meetings.

104. COUNTIES

II. GOVERNMENT.(Cont'd)

- 53. Minutes and records.
- 54. Orders and resolutions.
- 55. Ordinances and by-laws.
Certainty, definiteness, vagueness, and overbreadth, see CONSTITUTIONAL LAW.
- 56. Reconsideration and rescission of action.
- 57. Operation and effect of decisions.
- 58. Appeals from decisions.
- 59. Liabilities of members.
- 60. Criminal responsibility of members.

III. OFFICERS AND AGENTS.

See also PUBLIC EMPLOYMENT for cases involving civil service rules and proceedings.

- 61. Creation and abolition of offices.
- 62. Appointment or election of officers.
- 63. Appointment of agents or employees.
- 64. Eligibility and qualification.
- 65. Term of office, vacancies, and holding over.
- 66. Resignation.
- 67. Removal or other adverse action.
- 68. Compensation.
- 69. — In general.
- 69.1. — Constitutional and statutory provisions.
- 69.2. — Pensions and benefits.
- 70. — Salaries and commissions.
- 71. — Payment from fees.
- 72. — Additional compensation.
- 73. — Reimbursement of expenses.
- 74. — Particular officers, agents and services.
 - (1). In general.
 - (2). Clerk.
 - (3). Treasurer.
 - (4). Auditor.
 - (5). Surveyor.
 - (6). Agents, employees, and deputies.
 - (7). Holder of two or more offices.
- 75. — Allowance, recovery, and payment.
 - (1). In general.
 - (2). Review of decisions.
 - (3). Actions.
 - (4). Payment and recovery back of payments improperly made.
- 76. Fees.
- 77. — In general.
- 78. — Particular officers and services.

III. OFFICERS AND AGENTS.(Cont'd)

- (.5). In general.
- (1). Clerk.
- (2). Treasurer.
- (3). Auditor.
- 79. — Collection and enforcement.
- 80. — Accounting.
 - (1). In general.
 - (2). Fees to be included in account.
 - (3). Allowance or settlement of account.
- 81. Authority and powers.
- 81.1. — In general.
- 82. — Clerk.
- 83. — Treasurer.
- 84. — Auditor.
- 85. — Inferior ministerial officers.
- 86. — Agents and employees.
- 87. Duties and liabilities.
- 88. — In general.
- 89. — Clerk.
- 90. — Treasurer.
- 91. — Auditor.
- 92. — Inferior ministerial officers.
- 93. — Agents and employees.
- 94. Accounting for public funds or other property.
 - (.5). In general.
 - (1). Necessity and time.
 - (2). Charges and credits in general.
 - (3). Interest.
 - (4). Audit and settlement.
 - (5). Review of audit and settlement.
- 95. Liabilities on official bonds.
- 96. — In general.
- 97. — Discharge of sureties.
- 98. — Accrual or release of liability by breach or fulfillment of conditions.
 - (1). In general.
 - (2). Loss of funds through fraud, theft, or failure of depository.
 - (3). Successive or concurrent bonds.
- 99. — Extent of liability.
- 100. — Summary remedies.
- 101. — Actions.
 - (.5). In general.
 - (1). Nature and form.
 - (2). Conditions precedent.

104. COUNTIES

III. OFFICERS AND AGENTS.(Cont'd)

- (3). Defenses.
- (4). Limitations.
- See also* LIMITATION OF ACTIONS.
- (5). Parties.
- (6). Pleading.
- (7). Evidence.
- (8). Costs and expenses.
- (9). Trial, judgment, compromise and review.

102. Criminal responsibility.

IV. PUBLIC BUILDINGS AND OTHER PROPERTY.

- 103. Capacity to acquire and hold property.
- 104. Mode of acquiring property.
- 105. Construction of buildings and other works.
 - (1). In general.
 - (2). Submission to popular vote.
- 106. Use of property.
- 107. Control and regulation of public property, buildings, and places.
- 108. Power to sell and convey.
- 109. Power to mortgage.
- 110. Sale or other disposition of property.

V. CONTRACTS.

- 111. Capacity to contract in general.
 - (1). In general.
 - (2). Conditions precedent to contracting.
- 112. Constitutional and statutory provisions.
- 113. Powers of county board.
 - (1). In general.
 - (2). Power to contract so as to bind successors.
 - (3). Construction of buildings.
 - (4). County printing, stationery, and records.
 - (5). Employment of counsel.
 - (6). Employment of agents, assistants, and servants.
- 114. Powers of particular boards or officers.
- 115. Proposals or bids.
- 116. — In general.
- 117. — Request or advertisement.
- 118. — Form and requisites.
- 119. — Deposit or other security.
- 120. — Acceptance or rejection.

V. CONTRACTS.(Cont'd)

- 121. Formal requisites.
- 122. Validity and sufficiency.
 - (1). In general.
 - (2). Individual interest of officer.
- 123. Contractors' bonds.
- 124. Unauthorized or illegal contracts.
 - (1). In general.
 - (2). Ratification.
 - (3). Curative acts.
- 125. Implied contracts.
- 126. Construction and operation.
- 126.5. Assignment.
- 127. Modification or rescission.
- 128. Performance or breach.
- 129. Rights and remedies of contractor and sureties.
- 130. Rights and remedies of county.
- 130.5. Priority of county as creditor.

VI. COUNTY EXPENSES AND CHARGES AND STATUTORY LIABILITIES.

- 131. Nature and grounds of liability.
- 132. Constitutional and statutory provisions.
- 133. Expenses of county government in general.
- 134. Election expenses.
- 135. Expenses of police and other peace officers.
- 136. Expenses connected with administration of justice.
- 137. — In general.
- 138. — Civil proceedings.
- 139. — Criminal prosecutions.
- 140. Liabilities specially imposed by statute.

VII. TORTS.

- 141. Nature and grounds of liability.
- 142. Exercise of governmental powers in general.
- 143. Condition and use of public buildings, places, and property.
- 144. Construction and maintenance of public improvements and works.
- 145. Performance of duty imposed with consent or for benefit of county.
- 146. Acts of officers or agents.
- 147. Ratification or repudiation.
- 148. Injuries by mobs or other wrongdoers.

104. COUNTIES

VII. TORTS.(Cont'd)

- 148.5. Failure to protect against domestic violence, sexual assault, etc.

VIII. FISCAL MANAGEMENT, PUBLIC DEBT, AND SECURITIES.

149. Power to incur indebtedness in general.
150. Limitation of amount of indebtedness.
 (1). In general.
 (2). Debts and expenditures subject to limitations.
 (3). Computing or ascertaining limit.
151. Submission of question of expenditure to popular vote.
152. Contracts involving indebtedness or expenditures.
153. Borrowing money.
153.5. Limitation on use of funds or credit.
154. Aid to corporations and investments in stock.
 (1). In general.
 (2). Submission of question to popular vote.
154.5. Administration of finances in general.
155. Collection and custody of revenues.
156. Adjustment of accounts with state.
157. Adjustment of accounts with other counties, or with towns or school districts.
158. Disbursements in general.
159. Reports and statements as to finances.
160. General county funds.
161. Special funds.
162. Appropriations.
163. Warrants and certificates of indebtedness.
163.1. — In general.
164. — Power to issue.
165. — Issuance, requisites, and validity.
166. — Construction and operation.
167. — Assignment and other transfer.
168. — Payment.
 (1). In general.
 (2). From general or special fund.
 (3). Order of payment.
 (4). Interest.
 (5). Powers and duties of treasurer.
169. — Surrender for redemption, reissue, or funding.
170. — Remedies.
 (1). In general.

VIII. FISCAL MANAGEMENT, PUBLIC DEBT, AND SECURITIES.(Cont'd)

- (2). Limitations.
 (3). Pleading.
 (4). Evidence, trial, and judgment.
171. Bills and notes.
172. Power to issue bonds.
173. — In general.
173.1. — Limitations on issue.
173.2. — Aid to corporations.
174. — Public improvements.
175. — Refunding.
176. Proceedings preliminary to issue of bonds.
177. — In general.
178. — Petition or assent of taxpayers or voters.
179. Conditions precedent to issue of bonds.
180. — In general.
181. — Provision for payment.
182. Sale or other disposition of bonds by county.
183. Issuance, requisites, and validity of bonds.
 (1). In general.
 (2). Form and contents of bonds.
 (3). Ratification and estoppel to deny validity.
 (4). Proceedings to determine validity.
 (5). Curative acts.
184. Construction and operation.
185. Registration of bonds.
186. Transfer of bonds, or coupons.
186.5. Sinking funds.
187. Payment of bonds and coupons.
188. Actions on bonds or coupons.

IX. TAXATION.

189. Taxation.
190. — In general.
190.1. — Power and duty to levy.
190.2. — Limitations.
191. — Levy for general county purposes.
192. — Levy for special purposes.
193. — Assessment.
194. — Collection.
195. Disposition of taxes and other revenue.

104. COUNTIES

X. TAXPAYERS' SUITS OR ACTIONS.

- 196. Rights and remedies of taxpayers.
 - (.5). In general.
 - (1). Nature and grounds of action in general.
 - (2). Appeal from orders of county board.
 - (3). Grounds for injunction or appointment of receiver.
 - (4). Rights of action, defenses, and conditions precedent.
 - (5). Limitations and laches.
 - (6). Parties.
 - (7). Pleading and evidence.
 - (8). Trial, judgment, and review.
 - (9). Costs.

XI. CLAIMS AGAINST COUNTY.

- 197. Nature of claims required to be presented.
- 198. Interest.
- 199. Assignment.
- 200. Time for presentation.
- 201. Statement.
- 202. Verification and proof.
- 203. Presentation and filing.
- 204. Audit and allowance or disallowance.
 - (.5). In general.
 - (1). Nature and extent of power and duty to audit and allow claims in general.
 - (2). Reference to and approval of claims by auditor or other officer.
 - (3). Hearing.
 - (4). Decision.
 - (5). Compromise and arbitration.
- 205. Review of decision.
 - (.5). In general.
 - (1). Nature and form of remedy.
 - (2). Appellate jurisdiction.
 - (3). Right of review and decisions reviewable.
 - (4). Perfection of appeal and effect thereof.

XI. CLAIMS AGAINST COUNTY.(Cont'd)

- (5). Review and determination in appellate tribunal.
- 206. Effect of allowance or disallowance.
 - (.5). In general.
 - (1). Conclusiveness and effect of adjudication in general.
 - (2). Reconsideration and second audit.
 - (3). Effect as to other remedies for collection.
- 207. Payment.
 - (1). In general.
 - (2). Recovery of payments.

XII. ACTIONS.

- 208. Capacity to sue or be sued in general.
- 209. Statutory provisions.
- 210. Rights of action.
- 211. Conditions precedent.
- 211.1. — In general.
- 213.5. — Notice, demand, or presentation of claim.
 - (1). In general.
 - (2). Service or presentation; timeliness.
 - (3). Excuses for, and relief from, delay or failure.
 - (4). Form and sufficiency.
 - (5). Waiver and estoppel.
- 214. Defenses.
- 215. Jurisdiction and venue.
- 216. Time to sue and limitations.
See also LIMITATION OF ACTIONS.
- 217. Authority to sue in name of county.
- 218. Parties.
- 219. Process.
- 220. Appearance and representation by attorney.
- 221. Attachment and garnishment.
- 222. Pleading.
- 223. Evidence.
- 224. Trial.
- 225. Judgment.
- 226. Execution and enforcement of judgment.
- 227. Appeal and error.
- 228. Costs.

106. COURTS

105. COURT COMMISSIONERS

SUBJECTS INCLUDED

Officers authorized to assist state courts in performance of part of their functions with subordinate judicial powers

Appointment, qualification, tenure and removal of such officers

Their jurisdiction and powers and proceedings before them in general

Their rights, duties and liabilities

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Additional members of courts, commissioners appointed as or constituting auxiliary courts or parts of courts, see **COURTS, JUDGES**

Admiralty, commissioners in, see **ADMIRALTY**

Appellate courts, commissioners who write opinions, see **COURTS, JUDGES**

Chancery, commissioners in, see **EQUITY**

Federal court commissioners, see **UNITED STATES MAGISTRATE JUDGES**

Particular proceedings by or before commissioners, see **BOUNDARIES, EMINENT DOMAIN** and other specific topics

Reference of questions and issues to persons especially appointed, though denominated court commissioners, see **REFERENCE**

1. Creation and abolition of office, and appointment, qualification, and tenure.
2. Compensation and fees.
3. Powers, functions, and liabilities in general.
4. Civil jurisdiction and authority.
5. Procedure.
6. Liabilities on official bonds.

106. COURTS

SUBJECTS INCLUDED

The judicial department of government

Nature and scope of judicial power in general

Establishment, organization and conduct of business of courts

Ministerial officers attached to courts

Jurisdiction and procedure peculiar to particular courts

Concurrent and conflicting jurisdiction and comity between courts

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Administrative tribunals, see **ADMINISTRATIVE LAW AND PROCEDURE, PUBLIC UTILITIES, LABOR AND EMPLOYMENT** and other specific topics

Attorneys as officers of court, and supervision thereof, see **ATTORNEY AND CLIENT**

Contempt of court, see **CONTEMPT**

Criminal prosecutions, jurisdiction and procedure, see **CRIMINAL LAW** and specific topics

Federal courts, civil jurisdiction and procedure, see **FEDERAL COURTS** and **FEDERAL CIVIL PROCEDURE**

Impeachments, courts for trial of, see **PUBLIC EMPLOYMENT**

International courts and tribunals, see **INTERNATIONAL LAW**

Judges and officers of courts exercising judicial powers, and their official functions and acts, see **JUDGES, CLERKS OF COURTS, COURT COMMISSIONERS** and other specific topics

Jurisdiction as essential to validity of judgment, and particular modes of acquiring jurisdiction, see **JUDGMENT, APPEARANCE, CREDITORS' REMEDIES, PROCESS**, and other specific topics

Jury and court, respective functions, see **TRIAL, CRIMINAL LAW** and specific topics

Justices of the peace, see **JUSTICES OF THE PEACE**

Military courts or courts-martial, see **ARMED SERVICES, MILITARY JUSTICE, MILITIA, WAR AND NATIONAL EMERGENCY**

Particular classes of persons, species of property, etc., jurisdiction and proceedings, see **INFANTS, PARTNERSHIP** and other specific topics

Particular forms or causes of action and special proceedings other than actions, jurisdiction and procedure, see **DIVORCE, EMINENT DOMAIN** and other specific topics

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Reports of judicial decisions, see REPORTS

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Special jurisdiction, courts of and procedure therein, see ADMIRALTY, BANKRUPTCY, EQUITY, and other specific topics

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(B) LOCATION OF FORUM; FORUM NON CONVENIENS, ¶40.1-40.11.

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(B) COURT OFFICERS, ¶55-58.

(C) DE FACTO COURTS, ¶59.

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I. NATURE, EXTENT, AND EXERCISE OF JURISDICTION IN GENERAL.

(A) IN GENERAL.

1. In general; nature and source of judicial authority.

2. Grounds and essentials of jurisdiction.

3. Jurisdiction of cause of action.

4. — In general.

5. — Nature and grounds of action.

6. — Place of accrual of cause of action.

7. — Local or transitory actions.

8. — Actions under laws of other state.

9. — Actions under laws of foreign country.

10. Jurisdiction of the person in general.

11. — In general.

12.5. — Domicile or residence of party in general.

13. — Place where party is found or process served.

13.1. Actions by or against nonresidents, personal jurisdiction in; “long-arm” jurisdiction.

13.2. — In general.

13.3. — Factors considered in general.

(1). In general.

(2). Contacts with forum state in general.

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I. NATURE, EXTENT, AND EXERCISE OF JURISDICTION IN GENERAL.(Cont'd)

- (3). Nature, number, frequency, and extent of contacts and activities.
- (4). Purpose, intent, and foreseeability; purposeful availment.
- (5). Connection with litigation.
- (6). — In general.
- (7). — Unrelated contacts and activities; general jurisdiction.
- (8). — Related contacts and activities; specific jurisdiction.
- (9). Commercial contacts and activities; contracts and transactions.
- (10). — In general.
- (11). — Business contacts and activities; transacting or doing business.
- (12). Internet use.
- 13.4. — Particular nonresident entities.
 - (1). In general.
 - (2). Associations and organizations.
 - (3). Corporations and business organizations.
 - (4). Unincorporated business organizations.
 - (5). Limited liability companies.
 - (6). Partnerships and joint ventures.
 - (7). Non-profit corporations and organizations.
- 13.5. — Particular contexts and causes of action.

Domestic relations, see CHILD CUSTODY X, CHILD SUPPORT X, DIVORCE 62(5), PARENT AND CHILD II(C), and other specific topics and lines.

 - (1). In general.
 - (2). Property disputes; wills, trusts, and estates.
 - (3). Contract disputes.
 - (4). Torts in general.
 - (5). Automobile accidents; nonresident motorists.
 - (6). Manufacture, distribution, and sale of products.
 - (7). — In general.
 - (8). — Defective, dangerous, or injurious products; products liability.
 - (9). Defamation.
 - (10). Fraud, racketeering, and deceptive practices.

I. NATURE, EXTENT, AND EXERCISE OF JURISDICTION IN GENERAL.(Cont'd)

- (11). Professional services; malpractice.
- (12). Investment, finance, and credit.
- (13). Banks and banking.
- (14). Insurers and insurance.
- 13.6. — Agents, representatives, and other third parties, contacts and activities of as basis for jurisdiction.
 - (1). In general.
 - (2). Particular cases.
 - (3). Jurisdiction of agents, representatives, or other third parties themselves.
 - (4). — In general.
 - (5). — Fiduciary duties in general; fiduciary shield.
 - (6). — Tortious or intentional conduct; fraud and breach of fiduciary duties.
 - (7). Conspiracy and co-conspirators.
 - (8). Shareholders, members, or other individual owners of entities.
 - (9). Related or affiliated entities; parent and subsidiary.
- 13.7. — Change of residence; actions against former residents.
- 13.8. — Nonresident plaintiffs.
 - (1). In general.
 - (2). Actions between nonresidents.
16. Jurisdiction of property or other subject-matter involved.
17. — In general.
18. — Situation of real property.
19. — Situation of personal property.
20. Jurisdiction of remedy or relief.
21. Mode of acquiring or exercising jurisdiction in general.

See also APPEARANCE and PROCESS.
22. Consent of parties as to jurisdiction.
23. — In general.
24. — Of cause of action or subject-matter.
25. — Of the person.
26. Scope and extent of jurisdiction in general.
 - (1). In general.
 - (2). Discretion of court in general.
 - (3). Abuse of discretion in general.

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I. NATURE, EXTENT, AND EXERCISE OF JURISDICTION IN GENERAL.(Cont'd)

- 27. Ancillary and incidental jurisdiction.
- 28.5. Discretion as to exercise of jurisdiction.
Discretion as to location of forum, and doctrine of forum non conveniens, see I(B) below.
 - (1). In general.
 - (2). Abstention.
- 29. Exercise of jurisdiction beyond territorial limits.
- 30. Loss or divestiture of jurisdiction.
- 31. Jurisdiction to be shown by record.
- 32. — In general.
- 32.3. — Allegations, pleadings, and affidavits.
- 32.5. — Jurisdiction of the person.
 - (1). In general.
 - (2). Allegations, pleadings, and affidavits.
- 33. — Special, limited, or inferior jurisdiction.
- 34. Presumptions and burden of proof as to jurisdiction.
- 35. — In general.
- 36. — Special, limited, or inferior jurisdiction.
- 37. Waiver of objections.
 - (1). In general.
 - (2). Time of making objection.
 - (3). Estoppel arising from submitting to or invoking jurisdiction.
- 38. Grounds for questioning jurisdiction.
- 39. Determination of questions of jurisdiction in general.
- 40. Acts and proceedings without jurisdiction.

(B) LOCATION OF FORUM; FORUM NON CONVENIENS.

- 40.1. In general.
- 40.2. Discretion in general.
- 40.3. Parties' choice of forum; forum-shopping.
- 40.4. Place of accrual of cause of action.
- 40.5. Residency of parties; state of incorporation.
- 40.6. Convenience of parties and witnesses; location of evidence.
- 40.7. Burden placed on court and public.
- 40.8. Conflict of laws.
- 40.9. Public and private interests; balancing interests.

I. NATURE, EXTENT, AND EXERCISE OF JURISDICTION IN GENERAL.(Cont'd)

- 40.10. Alternate forum.
 - (1). In general.
 - (2). Availability and adequacy.
 - (3). Amenability to process.
 - (4). Enforceability of judgment in alternate forum.
 - (5). Scope and effect of pending proceedings.
- 40.11. Proceedings.
 - (1). In general.
 - (2). Form and sufficiency of motion.
 - (3). Affidavits; evidence.
 - (4). Presumptions and burden of proof.
 - (5). Determination and disposition.
 - (6). — In general.
 - (7). — Conditions precedent.
 - (8). — Form and sufficiency of order.
 - (9). — Denial, dismissal, or transfer.

II. ESTABLISHMENT, ORGANIZATION, AND PROCEDURE.

(A) CREATION AND CONSTITUTION.

- 41. Creation and abolition in general.
- 42. Constitutional and statutory provisions.
 - (1). In general.
 - (2). Intermediate appellate courts.
 - (3). County courts and other local courts.
 - (4). Probate courts.
 - (5). Municipal, police, and other city courts.
 - (6). Criminal courts.
 - (7). Courts of equity.
 - (8). Temporary or special courts, boards, and commissions.
- 43. Powers of Legislature.
- 44. Powers of Congress.
- 45. Judicial departments, circuits, and districts.
- 46. Organization and incidents of existence.
- 47. — In general.
- 48. — Courts of record.
- 49. — Courts not of record.
- 50. Divisions and parts of courts.

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II. ESTABLISHMENT, ORGANIZATION, AND PROCEDURE.(Cont'd)

- 51. Temporary courts and commissions.
- 52. Transfer or change of jurisdiction.
- 53. Reorganization.
- 54. Consolidation.

(B) COURT OFFICERS.

- 55. Ministerial officers in general.
- 56. Interpreters.
- 57. Stenographers.
 - (.5). In general.
 - (1). Appointment and duties.
 - (2). Compensation and fees.
- 58. Criers, bailiffs, and attendants.

(C) DE FACTO COURTS.

- 59. In general.

(D) UNAUTHORIZED OR ILLEGAL COURTS.

- 60. In general.

(E) PLACES AND TIMES OF HOLDING COURT.

- 61. Power to regulate places and times of holding court.
- 62. Constitutional and statutory provisions.
- 63. Terms in general and regular or stated terms.
- 64. Special or extraordinary terms.
 - (.5). In general.
 - (1). Definition.
 - (2). Power to hold or appoint in general.
 - (3). Constitutional and statutory provisions.
 - (4). Validity.
 - (5). Orders appointing special term.
 - (6). Jurisdiction and power at special term.
- 65. Duration of terms.
- 66. Adjournment of terms.
 - (1). In general.
 - (2). Order for adjournment and notice and record thereof.
 - (3). Reconvention of adjourned term.
 - (4). Nature of adjourned term.
 - (5). Duration of adjourned term.
 - (6). Adjournment of adjourned term.
- 66.1. Extension of terms.
- 67. Simultaneous terms of same court.

II. ESTABLISHMENT, ORGANIZATION, AND PROCEDURE.(Cont'd)

- 68. Continuance of proceeding after term.
- 69. Proceedings in vacation.
- 70. Designation or assignment of judges.
- 71. Attendance of officers.
- 72. Courthouses and courtrooms.
- 73. Accommodations and supplies.
- 74. Place for holding sessions.
- 75. Time for sessions.
- 76. Adjournment of sessions.
- 77. Failure to hold term or session.

(F) RULES OF COURT AND CONDUCT OF BUSINESS.

*Certainty, definiteness, vagueness, and overbreadth, see
CONSTITUTIONAL LAW.*

- 78. Power to regulate procedure.
 - 79. Constitutional and statutory provisions.
 - 80. Matters subject to regulation.
 - (1). In general.
 - (2). Admissibility of evidence.
 - (3). Time for presenting or filing pleadings, motions, or exceptions.
 - (4). Appeals.
 - (5). Fees and costs.
 - 81. Making and promulgation of rules.
 - 82. Modification, amendment, suspension, or disregard of rules.
 - 83. Rescission of rules.
 - 84. Record and evidence of rules.
 - 85. Operation and effect of rules.
 - (1). In general.
 - (2). Construction and application of rules in general.
 - (3). Construction and application of particular rules.
 - (4). Excuse for noncompliance.
 - 86. Conduct of particular proceedings.
- #### (G) RULES OF DECISION.
- 87. Nature of judicial determination.
 - 88. Previous decisions as controlling or as precedents.
 - 89. — In general.
Attorney General opinions involving statutory interpretation, see STATUTES ¶1289.
 - 90. — Decisions of same court or co-ordinate court.
 - (1). In general.

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II. ESTABLISHMENT, ORGANIZATION, AND PROCEDURE.(Cont'd)

- (2). Number of judges concurring in opinion, and opinion by divided court.
- (3). Constitutional questions.
- (4). Construction and operation of statutes.
- (5). Matters of form or practice.
- (6). Erroneous or injudicious decisions.
- (7). Decisions of co-ordinate courts of same state.
- 91. — Decisions of higher court or court of last resort.
 - (5). In general.
 - (1). Highest appellate court.
 - (2). Intermediate appellate court.
- 92. — Dicta.
- 93. — Rules of property.
 - (1). In general.
 - (2). Constitutional questions.
 - (3). Construction and operation of statutes.
 - (4). Erroneous decisions.
- 95. — Decisions of courts of other state.
 - (1). In general.
 - (2). Validity and construction of Constitutions and statutes of other states.
- 96. — Decisions of United States courts as authority in other United States courts.
 - (1). In general.
 - (3). Supreme Court decisions.
 - (4). Conclusiveness of decisions of Court of Appeals within its circuit.
 - (5). Decisions in other circuits.
 - (6). Construction of constitutions and statutes in general.
 - (7). Particular questions or subject matter.
- 97. — Decisions of United States courts as authority in state courts.
 - (1). In general.
 - (2). Validity of federal statutes.
 - (3). Validity of state statutes under federal Constitution.
 - (4). Validity of state statute under state Constitution.

II. ESTABLISHMENT, ORGANIZATION, AND PROCEDURE.(Cont'd)

- (5). Construction of federal Constitution, statutes, and treaties.
- (6). Construction of state Constitutions and statutes.
- 98. — Decisions of courts of other countries.
- 98.5. — Decisions of other courts as authority in tribal courts.
- 99. Previous decisions in same case as law of the case.
 - (1). In general.
 - (2). Rulings on pleadings.
 - (3). Jurisdiction, dismissal, nonsuit, and summary judgment, rulings relating to.
 - (4). Interim relief, rulings relating to.
 - (5). Trial or evidence, rulings relating to.
 - (6). Other particular matters, rulings relating to.
 - (7). Different courts or judges, rulings by.

(H) EFFECT OF REVERSAL OR OVERRULING.

- 100. In general.
 - (1). In general; retroactive or prospective operation.
 - (2). Effect on existing judgment.
 - (3). Parties or interests affected by subsequent decision.

(I) QUORUM OF JUDGES.

- 101. In general.

(J) CONCURRENCE IN ADJUDICATION.

- 102. In general.
 - (1). In general.
 - (2). Opinion by divided court.

(K) OPINIONS.

- 103. In general.
- 104. Necessity.
- 105. Constitutional and statutory provisions.
- 106. Preparation and filing.
- 107. Operation and effect in general.
- 108. As evidence of the law.

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(L) SYLLABI.

109. In general.

(M) RECORDS.

110. In general.

111. Necessity.

112. What constitutes.

113. Making and custody.

114. Entries nunc pro tunc.

115. Defects and omissions.

116. Amendment and correction.

(.5). In general.

(1). Power to amend.

(2). Authority of clerk.

(3). Errors or omissions which may be corrected.

(4). Time of amendment.

(5). Notice and application, and proceedings thereon.

(6). Operation and effect of amendment.

117. Operation and effect.

III. COURTS OF GENERAL ORIGINAL JURISDICTION.

(A) GROUNDS OF JURISDICTION IN GENERAL.

117.5. In general.

118. Courts invested with general jurisdiction.

119. Amount or value in controversy.

119.1. — In general.

120. — Requisite amount or value.

121. — Matter in dispute, or amount or value claimed or involved.

(1). In general.

(2). Amount claimed or sum recoverable or in dispute.

(3). Amount claimed or value of property.

(4). Uniting separate demands or causes of action, and aggregate of claims by or against two or more parties.

(5). Aggregate of principal and interest, costs, or attorney fees.

(6). Original amount affected by part payment or reduction from other cause.

(7). Amount as affected by set-off or counterclaim.

(8). Fictitious or fraudulent demand.

III. COURTS OF GENERAL ORIGINAL JURISDICTION.(Cont'd)

(9). Demand of exemplary or special damages.

(10). Amount in controversy in actions on bonds.

(11). Waiver of part of claim.

122. — Allegations and prayers in pleadings.

(B) COURTS OF PARTICULAR STATES.

123. Alabama.

123.1. Alaska.

123.2. Arizona.

124. Arkansas.

125. California.

126. Colorado.

127. Connecticut.

127.1. Delaware.

128. Florida.

129. Georgia.

129.1. Hawaii.

130. Idaho.

131. Illinois.

132. Indiana.

133. Iowa.

134. Kansas.

135. Kentucky.

136. Louisiana.

137. Maine.

138. Maryland.

139. Massachusetts.

139.1. Michigan.

140. Minnesota.

141. Mississippi.

142. Missouri.

143. Montana.

144. Nebraska.

145. Nevada.

146. New Hampshire.

147. New Jersey.

147.1. New Mexico.

148. New York.

149. North Carolina.

149.1. North Dakota.

150. Ohio.

150.1. Oklahoma.

150.2. Oregon.

151. Pennsylvania.

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III. COURTS OF GENERAL ORIGINAL JURISDICTION.(Cont'd)

- 152. Rhode Island.
- 153. South Carolina.
- 153.1. South Dakota.
- 154. Tennessee.
- 155. Texas.
- 156. Utah.
- 156.1. Vermont.
- 157. Virginia.
- 157.1. Washington.
- 157.2. West Virginia.
- 158. Wisconsin.
- 158.1. Wyoming.

IV. COURTS OF LIMITED OR INFERIOR JURISDICTION.

- 159. Nature and scope of limitations in general.
- 160. Constitutional and statutory provisions.
- 161. Courts limited as to jurisdiction.
- 162. Limitations as to subject-matter.
- 162.1. — In general.
- 163. — Title to real property.
- 164. — Allegations in pleadings.
- 165. Limitations as to parties.
- 167. Limitations as to amount or value in controversy.
- 168. — In general.
- 169. — Amount or value claimed or involved.
 - (.5). In general.
 - (1). Amount claimed or sum recoverable or in dispute.
 - (2). Amount claimed or value of property.
 - (3). Aggregate of claims in general.
 - (4). Aggregate of principal and interest, attorney fees, or costs.
 - (5). Amount as affected by set-off or counterclaim.
 - (6). Demand of exemplary or special damages.
 - (7). Amount in controversy in actions on bonds.
 - (8). Waiver of part of claim, and splitting demands.
- 170. — Allegations and prayers in pleadings.
- 171. Territorial limitations.

IV. COURTS OF LIMITED OR INFERIOR JURISDICTION.(Cont'd)

- 172. — In general.
- 173. — Execution of process.
- 174. Particular courts of special civil jurisdiction.
- 174.1. — In general.
- 175. — Jurisdiction.
- 176. — Procedure.
- 176.5. — Review of proceedings.
- 177. Civil jurisdiction of criminal courts.
- 177.1. — In general.
- 178. — Jurisdiction.
- 179. Particular courts of inferior civil jurisdiction.
- 179.1. — In general.
- 180. — Jurisdiction.
- 181. — Procedure.
- 182. County courts and other local courts.
- 182.1. — In general.
- 183. — Jurisdiction.
- 184. — Procedure.
- 185. — Review of proceedings.
- 186. Municipal courts.
- 186.1. — In general.
- 187. — Nature and incidents of municipal courts in general.
- 188. — Jurisdiction.
 - (1). In general.
 - (2). Nature of subject-matter in general.
 - (3). Equitable jurisdiction and relief.
 - (4). Actions on contracts.
 - (5). Actions on bonds.
 - (6). Actions for torts.
 - (7). Actions for recovery of money.
 - (8). Actions for recovery of rent or removal of tenant.
 - (9). Replevin.
 - (10). Foreclosure or enforcement of liens or mortgages.
 - (11). Actions to restore lost instruments.
 - (12). Actions for reformation of instruments.
 - (13). Prohibition.
 - (14). Actions on judgments.
 - (15). Summary proceedings.
- 189. — Procedure.

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IV. COURTS OF LIMITED OR INFERIOR JURISDICTION.(Cont'd)

- (1). In general.
- (2). Place of holding court.
- (3). Venue and change of venue.
- (3.5). Parties.
- (4). Process.
- (5). Appearance.
- (6). Attachment and replevin.
- (6.5). Counterclaim.
- (7). Pleading.
- (8). Evidence and depositions.
- (9). Dismissal and nonsuit.
- (10). Continuance and adjournment.
- (11). Submission of cause on agreed statement.
- (11.5). Trial in general.
- (12). Trial without jury.
- (13). Direction of verdict.
- (14). New trial.
- (15). Judgment.
- (16). Records and dockets.
190. — Review of proceedings.
 - (.5). In general.
 - (1). Nature and form of remedy.
 - (2). Decisions reviewable.
 - (3). Right of review.
 - (3.5). Presentation of grounds of review.
 - (4). Requisites and proceedings for transfer of cause.
 - (5). Supersedeas or stay of proceedings.
 - (6). Return, statement, record or transcript, and assignment of errors.
 - (7). Briefs.
 - (8). Review.
 - (9). Determination and disposition of cause.
 - (10). Liabilities on bonds and undertakings.
191. District courts in cities, and other local district courts.
- 191.1. — In general.
192. — Jurisdiction.
193. — Procedure.
194. — Review of proceedings.
195. Specially created courts and tribunals.
- 195.1. — In general.

IV. COURTS OF LIMITED OR INFERIOR JURISDICTION.(Cont'd)

196. — Jurisdiction.
197. — Procedure.

V. COURTS OF PROBATE JURISDICTION.

198. Nature and scope of jurisdiction in general.
199. Constitutional and statutory provisions.
200. Courts invested with probate jurisdiction.
- 200.5. Equitable powers in general.
- 200.7. Determination of title to property.
201. Ancillary and incidental jurisdiction.
202. Procedure in general.
 - (1). In general.
 - (2). Pleading.
 - (3). Trial.
 - (4). Judgment, orders, and records.
 - (5). Review and vacation of proceedings.

VI. COURTS OF APPELLATE JURISDICTION.

(A) GROUNDS OF JURISDICTION IN GENERAL.

203. Constitutional and statutory provisions.
204. Supervisory jurisdiction.
205. Jurisdiction ancillary or incidental to appellate powers.
206. Original jurisdiction in general.
 - (.1). Alabama.
 - (.2). Alaska.
 - (.3). Arizona.
 - (.4). Arkansas.
 - (1). California.
 - (2). Colorado.
 - (2.1). Connecticut.
 - (2.2). Delaware.
 - (2.3). Florida.
 - (2.4). Georgia.
 - (2.5). Hawaii.
 - (3). Idaho.
 - (4). Illinois.
 - (4.1). Indiana.
 - (5). Iowa.
 - (6). Kansas.
 - (6.1). Kentucky.
 - (7). Louisiana.
 - (7.1). Maine.
 - (7.2). Maryland.

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VI. COURTS OF APPELLATE JURISDICTION.(Cont'd)

- (8). Massachusetts.
- (8.1). Michigan.
- (8.2). Minnesota.
- (8.3). Mississippi.
- (9). Missouri.
- (10). Montana.
- (11). Nebraska.
- (11.1). Nevada.
- (12). New Hampshire.
- (12.1). New Jersey.
- (12.2). New Mexico.
- (13). New York.
- (14). North Carolina.
- (15). North Dakota.
- (15.1). Ohio.
- (15.2). Oklahoma.
- (15.3). Oregon.
- (16). Pennsylvania.
- (16.1). Rhode Island.
- (17). South Carolina.
- (17.1). South Dakota.
- (17.2). Tennessee.
- (17.3). Texas.
- (17.4). Utah.
- (17.5). Vermont.
- (17.6). Virginia.
- (18). Washington.
- (18.1). West Virginia.
- (19). Wisconsin.
- (20). Wyoming.
- 207. Issuance of prerogative or remedial writs.
 - 207.1. — In general.
 - 207.2. — Certiorari.
 - 207.3. — Injunction.
 - 207.4. — Mandamus.
 - (.5). In general.
 - (1). Jurisdiction in general; subjects and purposes of relief.
 - (1.1). — In general.
 - (2). — Courts, judges, and judicial officers, acts and proceedings of.
 - (3). — Public officers, boards, and municipalities, acts and proceedings of.
 - 207.5. — Prohibition.

VI. COURTS OF APPELLATE JURISDICTION.(Cont'd)

- 207.6. — Quo warranto.
- 208. Questions submitted by Legislature or Governor or other officer.
- 209. Procedure in general.
 - (1). In general.
 - (2). In issuance of writs.
- (B) COURTS OF PARTICULAR STATES.
- 210. Alabama.
- 210.1. Alaska.
- 210.2. Arizona.
- 211. Arkansas.
- 212. California.
- 213. Colorado.
 - (.5). In general.
 - (1). Appellate jurisdiction of Supreme Court in general.
 - (1.1). — In general.
 - (2). — Review of decisions of Court of Appeals in general.
 - (3). — Review of decisions of Court of Appeals as contrary to previous decisions of Supreme Court.
 - (4). — Review of decisions of county courts.
 - (5). Appellate jurisdiction of Court of Appeals in general.
 - (6). Appellate jurisdiction of cases involving special case or great public question.
 - (7). Appellate jurisdiction of cases involving constitutional questions.
 - (8). Appellate jurisdiction of cases relating to freehold or franchise.
 - (9). Appellate jurisdiction dependent on amount or value in controversy.
- 214. Connecticut.
- 215. Delaware.
- 216. Florida.
- 217. Georgia.
 - (1). In general.
 - (2). Appellate jurisdiction of Supreme Court in general.
 - (3). Appellate jurisdiction of Court of Appeals in general.
 - (4). Courts subject to review.

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**VI. COURTS OF APPELLATE
JURISDICTION.**(Cont'd)

- (5). Actions and proceedings reviewable.
- (5.1). — In general.
- (6). — Suits in equity.
- (7). — Actions at law.
- (8). — Determination of character of action.
- (9). — Change in character.
- (10). Certification of questions by Court of Appeals to Supreme Court.
- (10.1). — In general.
- (11). — Questions previously determined.
- (12). — Questions of fact or of law and fact.
- (13). — Form and sufficiency of questions.
- (14). Transfer of cause.
- (15). Appellate jurisdiction in cases involving constitutional questions.
- (15.1). — In general.
- (16). — In criminal prosecutions.
- (17). — Time of raising question.
- (18). — Necessity and sufficiency of raising question.
- (19). Appellate jurisdiction of cases involving title to land.
- (20). Appellate jurisdiction in cases involving validity and construction of wills.
- (21). Appellate jurisdiction in cases involving extraordinary remedies.
- 217.1. Hawaii.
- 218. Idaho.
- 219. Illinois.
- 219.1. — Supreme Court, appellate jurisdiction in general.
- (1). In general.
- (2). Appeals from Appellate Court.
- (3). Nature of proceeding or question in general.
- (4). Eminent domain.
- (5). Probate matters.
- (6). Mandamus.
- (7). Injunction.

**VI. COURTS OF APPELLATE
JURISDICTION.**(Cont'd)

- (8). Transfers to Appellate Court.
- 219.2. — Certificate of cases by Appellate Court to Supreme Court.
- 219.3. — Appellate Court, appellate jurisdiction in general.
- (1). In general.
- (2). On appeal from municipal courts.
- (3). On appeal from county courts.
- (4). Nature of proceeding or question in general.
- (5). Probate matters.
- 219.4. — Circuit courts, appellate jurisdiction.
- 219.5. — Cases in which state is directly interested.
- 219.6. — Revenue cases.
- (1). In general.
- (2). Taxes in general.
- (3). Personal property taxes.
- (4). Special assessments.
- (5). School taxes.
- (6). Inheritance tax.
- (7). Retailers' occupation tax; franchise tax.
- 219.7. — Cases involving the interpretation and validity of the Constitution and statutes in general.
- (1). In general.
- (2). Persons who may raise question.
- (3). Questions already decided.
- (4). Sham or fraudulent questions; debatable questions.
- (5). Necessity of raising question and ruling thereon.
- (5.1). — In general.
- (6). — Record showing presentation and ruling thereon.
- (7). Necessity that constitutional question be primary inquiry; decision on other grounds.
- (8). Constitutional questions first raised in Appellate Court.
- (9). Waiver of constitutional question by taking appeal to Appellate Court.
- (10). Appellate Court's lack of authority; determination of its authority.

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VI. COURTS OF APPELLATE JURISDICTION.(Cont'd)

- (11). Construction of statutes.
- (12). Federal statutes and Constitution; foreign statutes.
- (13). When constitutional question presented.
- (14). Unjust or erroneous decision; error in applying principles of constitutional law.
- (15). Trial and procedure in general.
- (16). Attacking judgment or decree.
- (17). Mode and sufficiency of raising question.
- (17.1). — In general.
- (18). — Pleadings; mere assertion of constitutional question.
- (19). Presumption of validity of statute in Appellate Court.
- (20). Transfers.
- 219.8. — Particular constitutional provisions and statutes.
 - (1). In general.
 - (2). Vested rights, obligations of contracts, equal protection of law, and due process of law.
 - (3). Right to trial by jury.
 - (4). Full Faith and Credit Clause of Federal Constitution.
 - (5). Contempt proceedings.
 - (6). Divorce.
 - (7). Eminent domain; taking without just compensation.
 - (8). Injunction.
 - (9). Mandamus.
 - (10). Municipal Court Act, cases arising under.
 - (11). Schools.
 - (12). Stockholders of defunct banks, suits to enforce liability of.
 - (13). Taxation; assessments.
 - (14). Workers' compensation.
 - (15). Criminal prosecutions.
 - (15.1). — In general.
 - (16). — Misdemeanor cases.
 - (17). Unreasonable searches and seizures.
- 219.9. — Cases involving the interpretation and validity of ordinances.
 - (1). In general.

VI. COURTS OF APPELLATE JURISDICTION.(Cont'd)

- (2). What constitutes an ordinance.
- (3). Zoning ordinances; building permits.
- (4). Construction of ordinances.
- (5). Mode and sufficiency of questioning validity.
- (5.1). — In general.
- (6). — Certification by trial judge.
- (7). Prosecutions for violating ordinances.
- 219.10. — Cases involving franchise or right to hold office.
 - (1). In general.
 - (2). When franchise involved.
 - (3). Licenses.
 - (4). Elective franchise.
 - (5). Corporate franchise.
 - (6). Franchise to use public property.
 - (7). Existence of municipal corporations in general; legality of organization.
 - (8). Title to public office.
- 219.11. — Cases involving freehold in general.
 - (1). In general.
 - (2). What constitutes freehold; when freehold involved.
 - (3). Freehold located outside state.
 - (4). Decree not affecting freehold.
 - (5). Interlocutory orders in cases involving freehold.
 - (6). Necessity that freehold be directly involved.
 - (7). Gaining or losing freehold.
 - (7.1). — In general.
 - (8). — Title put in issue by pleadings.
 - (9). — Freehold not necessarily lost.
 - (10). Right to do that which will entitle party to freehold.
 - (11). Assignment of errors.
 - (12). When freehold was involved in original suit but not on appeal.
 - (13). Waiver by appeal to Appellate Court.
 - (14). Transfers.

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**VI. COURTS OF APPELLATE
JURISDICTION.(Cont'd)**

- 219.12. — Particular cases involving freehold.
- (1). In general.
 - (2). Boundaries.
 - (3). Corporations.
 - (4). Divorce; separate maintenance.
 - (5). Dower.
 - (6). Eminent domain.
 - (7). Execution; attachment; judicial sale.
 - (8). Forcible entry and detainer.
 - (9). Leases and rents.
 - (10). Liens; mechanic's liens.
 - (11). Easements, franchises or rights of way.
 - (11.1). — In general.
 - (12). — Drainage; waters.
 - (13). — Public utilities.
 - (14). Ejectment.
 - (15). Fraudulent conveyances.
 - (16). Highways and streets; dedication.
 - (16.1). — In general.
 - (17). — Obstruction of highway or street.
 - (18). Homesteads.
 - (19). Mineral rights.
 - (20). Mortgage foreclosure.
 - (20.1). — In general.
 - (21). — Redemption.
 - (22). — Suits to have deeds declared mortgages.
 - (23). Partition.
 - (23.1). — In general.
 - (24). — Freehold not involved in general.
 - (25). — Questions of practice and procedure; costs.
 - (26). Partnership.
 - (27). Probate matters in general.
 - (27.1). — In general.
 - (28). — Wills in general.
 - (29). — Construction of wills.
 - (30). Quieting title; removal of cloud on title.
 - (31). Restrictive covenants; building restrictions.
 - (32). Specific performance.
 - (33). Tax proceedings.

**VI. COURTS OF APPELLATE
JURISDICTION.(Cont'd)**

- (34). Transfer of realty.
 - (34.1). — In general.
 - (35). — Setting aside transfer, cancellation or reformation of deeds.
 - (36). Trespass.
 - (37). Trusts.
- 219.13. — Amount or value in controversy, appellate jurisdiction dependent on.
- (1). In general.
 - (2). Requisite amount or value.
 - (3). Matters in dispute and amount or value claimed.
 - (4). Allegations and prayers in pleadings.
 - (5). Evidence.
220. Indiana.
- (1). Appellate jurisdiction of Supreme Court in general.
 - (2). Appellate jurisdiction of Court of Appeals in general.
 - (2.5). Appellate jurisdiction of circuit courts.
 - (2.7). Transfer in general.
 - (3). Transfer of causes where opinion of Court of Appeals contravenes ruling of Supreme Court or announces erroneous rule of law.
 - (4). Transfer of causes where Court of Appeals is convinced that rule established by Supreme Court is erroneous.
 - (5). Transfer of causes to Supreme Court where Court of Appeals is divided.
 - (6). Reservation of questions of law for Supreme Court.
 - (7). Appellate jurisdiction of cases involving constitutional questions.
 - (7.1). — In general.
 - (8). — Presentation of questions.
 - (9). Appellate jurisdiction of cases involving construction of statutes.
 - (10). Appellate jurisdiction of suits in equity.
 - (11). Appellate jurisdiction of suits for recovery of money only.

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VI. COURTS OF APPELLATE JURISDICTION.(Cont'd)

- (12). Appellate jurisdiction of cases involving franchise.
- (13). Appellate jurisdiction of cases involving title to real estate.
- (14). Appellate jurisdiction dependent on amount or value in controversy.
- 221. Iowa.
- 222. Kansas.
 - (.5). In general.
 - (1). Appellate jurisdiction of Supreme Court in general.
 - (2). Appellate jurisdiction of Court of Appeals in general.
 - (3). Appellate jurisdiction of cases involving constitutional questions.
 - (4). Appellate jurisdiction of cases involving title to land.
 - (5). Appellate jurisdiction dependent on amount or value in controversy.
- 223. Kentucky.
 - (.5). Appellate jurisdiction of Supreme Court in general.
 - (1). Appellate jurisdiction of Court of Appeals in general.
 - (2). Appellate jurisdiction of Superior Court in general.
 - (3). Appellate jurisdiction of cases involving constitutional questions.
 - (4). Appellate jurisdiction of cases relating to revenue.
 - (5). Appellate jurisdiction of cases involving title to real estate.
 - (6). Appellate jurisdiction dependent on amount or value in controversy.
- 224. Louisiana.
 - (1). In general.
 - (2). Appellate jurisdiction of Supreme Court in general.
 - (3). Appellate jurisdiction of Court of Appeals in general.
 - (4). Certification of cases involving questions of law.
 - (5). Appellate jurisdiction of cases where there is a fund in court for distribution.

VI. COURTS OF APPELLATE JURISDICTION.(Cont'd)

- (6). Appellate jurisdiction of cases involving constitutional questions.
- (7). Appellate jurisdiction of cases involving legality of tax, toll, impost, fine or penalty.
- (8). Appellate jurisdiction of cases involving title to land.
- (9). Appellate jurisdiction dependent on amount or value in controversy.
- (9.1). — In general.
- (10). — Requisite amount or value.
- (11). — Matter in dispute and amount or value claimed.
- (12). — Evidence.
- 225. Maine.
- 226. Maryland.
- 227. Massachusetts.
- 228. Michigan.
- 229. Minnesota.
- 230. Mississippi.
- 231. Missouri.
 - (1). Appellate jurisdiction of Supreme Court in general.
 - (2). Appellate jurisdiction of Courts of Appeals in general.
 - (3). Appellate jurisdiction of circuit courts and courts of common pleas.
 - (4). Certifying or transferring to Supreme Court cases involving conflict with previous decisions.
 - (5). Appellate jurisdiction dependent on character of parties.
 - (6). Appellate jurisdiction of cases involving constitutional questions.
 - (6.1). — In general.
 - (7). — Distribution of governmental powers.
 - (8). — Vested rights, obligations of contracts, equal protection of laws, and due process of law.
 - (9). — Retroactive effect of statutes.
 - (10). — Time when statute took effect.
 - (11). — Eminent domain.
 - (12). — Uniformity of taxation.

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**VI. COURTS OF APPELLATE
JURISDICTION.(Cont'd)**

- (13). — Right to trial by jury.
- (14). — Number of jurors concurring in verdict.
- (15). — Public lands.
- (16). — Trial and procedure.
- (17). — City charters and ordinances.
- (18). — In criminal prosecutions.
- (19). — Questions already decided.
- (20). — Sham or fraudulent questions.
- (21). — Statutes of or authority exercised under United States.
- (22). — Necessity of raising question.
- (23). — Mode and sufficiency of raising question.
- (24). Appellate jurisdiction of cases involving title to office.
- (25). Appellate jurisdiction of cases involving title to land.
- (25.1). — In general.
- (26). — Suits to subject real estate to payment of debts in general.
- (27). — Proceedings to set aside fraudulent conveyances.
- (28). — Proceedings relating to executions.
- (29). — Actions to recover purchase price of land.
- (30). — Suits for specific performance.
- (31). — Actions for reformation of instruments.
- (32). — Suits to set aside judgment.
- (33). — Actions for trespass.
- (34). — Suits for partition.
- (35). — Suits relating to trusts.
- (36). — Suits for waste.
- (37). — Suits relating to easements, franchises, or rights of way.
- (38). — Condemnation proceedings.
- (39). — Suits relating to highways.
- (40). — Suits relating to dower and curtesy.
- (41). — Suits relating to homesteads.

**VI. COURTS OF APPELLATE
JURISDICTION.(Cont'd)**

- (42). — Actions for ejectment.
 - (43). — Actions for replevin.
 - (44). — Suits relating to deeds of trust or mortgages.
 - (45). — Suits to enforce mechanics' liens.
 - (46). — Tax proceedings.
 - (47). — Suits relating to wills and devises.
 - (48). Appellate jurisdiction of cases involving revenue.
 - (49). Appellate jurisdiction dependent on amount or value in controversy.
 - (49.1). — In general.
 - (50). — Requisite amount or value.
 - (51). — Matter in dispute and amount or value claimed.
 - (52). — Allegations and prayers in pleadings.
232. Montana.
233. Nebraska.
234. Nevada.
235. New Hampshire.
236. New Jersey.
- 236.1. New Mexico.
237. New York.
- (1). Appellate jurisdiction of Court of Appeals in general.
 - (1.1). — In general.
 - (2). — Certificate of cases by Supreme Court.
 - (3). Appellate jurisdiction of Supreme Court in general.
 - (3.1). — In general.
 - (4). — Appeals from city or district courts.
 - (5). Appellate jurisdiction of cases involving title to land.
 - (6). Appellate jurisdiction dependent on amount or value in controversy.
 - (7). Appellate jurisdiction of court of common pleas.
238. North Carolina.
239. North Dakota.
240. Ohio.
- 240.1. Oklahoma.

106. COURTS

VI. COURTS OF APPELLATE JURISDICTION.(Cont'd)

- 241. Oregon.
- 242. Pennsylvania.
 - (1). Appellate jurisdiction in general.
 - (2). Supreme Court in general.
 - (3). Superior Court in general.
 - (4). Amount in controversy.
- 243. Rhode Island.
- 244. South Carolina.
- 245. South Dakota.
- 246. Tennessee.
- 247. Texas.
 - (1). Appellate jurisdiction of Supreme Court in general.
 - (2). Appellate jurisdiction of Courts of Civil and Criminal Appeals in general.
 - (3). Appellate jurisdiction of district court in general.
 - (4). Appellate jurisdiction of county court in general.
 - (5). Certificate of questions by Court of Civil Appeals to Supreme Court in general.
 - (6). Certificate of dissent from Court of Civil Appeals to Supreme Court.
 - (7). Review by or certificate to Supreme Court by Court of Civil Appeals of questions where its decision conflicts with or overrules that of another Court of Civil Appeals or that of the Supreme Court.
 - (8). Appellate jurisdiction of cases involving Constitution or statutes.
 - (9). Appellate jurisdiction of cases relating to revenue.
 - (10). Appellate jurisdiction of cases involving boundaries or title to land.
 - (11). Appellate jurisdiction dependent on amount or value in controversy.
- 248. Utah.
- 249. Vermont.
- 250. Virginia.
- 251. Washington.
- 252. West Virginia.

VI. COURTS OF APPELLATE JURISDICTION.(Cont'd)

- 253. Wisconsin.
- 254. Wyoming.

VII. CONCURRENT AND CONFLICTING JURISDICTION.

(A) COURTS OF SAME STATE.

1. IN GENERAL.

- 472. Exclusive or concurrent jurisdiction.
 - 472.1. — In general.
 - 472.2. — Appellate or Supreme Courts.
 - 472.3. — County courts.
 - 472.4. — Probate courts.
 - (1). In general.
 - (2). Decedents' estates, administration of.
 - (2.1). — In general.
 - (3). — Assets and collection thereof.
 - (4). — Claims and proceedings against estates and representatives.
 - (5). — Accounting, distribution, and settlement.
 - (6). Wills.
 - (7). Trusts.
 - (8). Guardianship; infants and incompetents.
 - 472.5. — Common pleas.
 - 472.6. — Municipal or other city courts.
 - 472.7. — Justices of the peace.
 - 472.8. — Actions to enforce mechanics' liens.
- 473. Election of tribunal.
- 474. Priority of jurisdiction.
- 475. Pendency and scope of prior proceeding.
 - (1). In general.
 - (2). Probate proceedings, administration, distribution, and settlement of estates.
 - (4). Trusts and trustees.
 - (5). Receivers and receiverships.
 - (6). Guardianship and estates of incompetent persons.
 - (7). Assignments for benefit of creditors, and creditors' suits.
 - (8). Condemnation proceedings.
 - (9). Determination of water rights.

106. COURTS

VII. CONCURRENT AND CONFLICTING JURISDICTION.(Cont'd)

- (10). Enforcement of liens and mortgages.
- (11). Proceedings for partition.
- (12). Judicial sales.
- (13). Injunctions.
- (14). Proceedings for relief against erroneous taxation.
- (15). Suits for divorce.
- 476. Assumption and exercise of conflicting jurisdiction in general.
- 477. Prisoners under arrest, commitment, or sentence.
For later cases concerning Detainers, see EXTRADITION AND DETAINERS.
- 478. Property in custody of the law.
- 479. Suspension of proceedings.
- 480. Injunction or prohibition against proceedings.
 - (1). In general.
 - (2). Enjoining enforcement of judgment.
 - (3). Enjoining enforcement of execution.
- 481. Vacating or annulling decisions.

2. TRANSFER OF CAUSES.

- 483. In general.
- 484. Courts from and to which transfer may be made.
- 485. Causes which may be transferred.
- 486. Grounds.
- 487. Proceedings.
 - (1). In general.
 - (2). On whose application cause removed.
 - (3). Time of making application for transfer.
 - (4). Demand for transfer.
 - (5). Petition for removal.
 - (6). Undertaking to secure removal.
 - (7). Order for removal.
 - (8). Certificate of record to other court.
 - (9). Stipulations for transfer.
 - (10). Effect of application for transfer.
- 488. Effect of transfer and proceedings had thereafter.
 - (1). In general.

VII. CONCURRENT AND CONFLICTING JURISDICTION.(Cont'd)

- (2). Pleading.
- (3). Improper transfer.
- (4). Retransfer or remand of cause.

(B) STATE COURTS AND UNITED STATES COURTS.

Territorial courts and other courts, see COURTS
§540. District of Columbia local courts and other courts, see COURTS §550.

- 489. Exclusive or concurrent jurisdiction.
 - (1). In general.
 - (2). Suits involving validity or construction of state statutes.
 - (3). Suits relating to inventions or patent rights.
 - (4). Suits relating to literary property.
 - (5). Suits relating to public lands.
 - (6). Suits for penalties.
 - (7). Suits relating to maritime contracts and liens.
 - (8). Suits involving anti-trust law.
 - (9). Suits brought under interstate commerce act.
 - (9.5). Suits under employers' liability act.
 - (10). Suits by or against corporations.
 - (11). Suits by or against national banks.
 - (12). Condemnation proceedings.
 - (13). Suits relating to wills, probate, and administrations of estates.
 - (14). Suits on bonds.
 - (15). Actions affecting consuls and ambassadors.
 - (16). Suits against United States or officers thereof.
 - (17). Suits by state against citizens of other state.
- 490. Comity in general.
- 491. Election of tribunal.
- 492. Priority of jurisdiction.
- 493. Pendency and scope of prior proceeding.
 - (1). In general.
 - (2). Scope and effect of proceedings pending in federal court.
 - (3). Scope and effect of proceedings pending in state court.
- 494. Assumption and exercise of conflicting jurisdiction in general.

106. COURTS

VII. CONCURRENT AND CONFLICTING JURISDICTION.(Cont'd)

495. Prisoners under arrest, commitment, or sentence.
For later cases concerning Detainers, see EXTRADITION AND DETAINERS.
496. Property in custody of the law.
497. — In general.
498. — Actual or constructive possession.
499. — Remedies against officers.
500. — Possession of receiver.
501. — Actions against receivers.
502. — Proceedings in admiralty.
503. — Seizures and proceedings for forfeiture.
504. — Assignments for benefit of creditors, and insolvency and bankruptcy proceedings.
505. — Administration of decedents' estates.
506. Suspension of proceedings.
507. Injunction by state court against proceedings in United States court.
508. Injunction by United States court against proceedings in state court.
- (1). In general.
- (2). Restraining particular proceedings.
- (2.1). — In general.
- (3). — Enforcement of judgment or sale under execution.
- (4). — Restraining acts of receivers of state courts.
- (5). — Condemnation proceedings.
- (6). — Assessment or collection of taxes.
- (7). — Criminal proceedings.
- (8). — Restraining proceedings after removal of cause to federal court.
- 509.1. Federal-court review of state-court decisions; Rooker-Feldman doctrine.
- 509.2. — In general.
- 509.3. — Particular cases and contexts.
- (1). In general.
- (2). Constitutional questions, civil rights, and discrimination in general.
- (3). Labor and employment.
- (4). Prisoners and inmates.
- (5). Fraud.

VII. CONCURRENT AND CONFLICTING JURISDICTION.(Cont'd)

- (6). Debtor and creditor; bankruptcy; mortgages, liens, and security interests.
- (7). Regulation of attorneys.
- 509.4. — United States Supreme Court, exclusive federal jurisdiction of.
- 509.5. State-court review of federal-court decisions.
- (C) COURTS OF DIFFERENT STATES OR COUNTRIES.
510. Exclusive or concurrent jurisdiction.
511. Comity between courts of different states.
512. Comity between courts of different countries.
513. Election of tribunal.
514. Pendency and scope of prior proceeding.
For later cases concerning Detainers, see EXTRADITION AND DETAINERS.
515. Suspension of proceedings.
516. Injunction against proceedings.
517. Annulling decisions.
- 517.5. Certification of questions.
- (D) TRIBAL COURTS AND OTHER COURTS.
530. In general.
- (E) TERRITORIAL COURTS AND OTHER COURTS.
540. In general.
- (F) DISTRICT OF COLUMBIA COURTS AND OTHER COURTS.
- U.S. District Court for the District of Columbia and U.S. Court of Appeals for the District of Columbia Circuit, see VII(B), FEDERAL COURTS XIX.*
550. In general.

107. COVENANT, ACTION OF

SUBJECTS INCLUDED

- Actions of covenant, as distinguished from other forms of action
- Nature and scope of the remedy in general

108. COVENANTS

Grounds of such actions and defenses thereto, and by and against whom they may be maintained

Proceedings therein

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Covenants and particular classes of promises in writing under seal on which the action may be maintained, see COVENANTS, BONDS, DEEDS and other specific topics

Election between remedies, see ELECTION OF REMEDIES

Forms of action, distinctions between, see ACTION

1. Nature and scope of remedy.
2. Statutory provisions.
3. Grounds.
4. Defenses.
5. Persons entitled to sue.
6. Persons liable.
7. Jurisdiction and venue.
8. Time to sue, and limitations.
9. Parties.
10. Process and appearance.
11. Pleading.
 - 11.1. — In general.
12. — Declaration.
13. — Plea, replication, and subsequent pleadings.
14. — Issues, proof, and variance.
15. Evidence.
16. Damages.
17. Trial.
18. Judgment.

108. COVENANTS

SUBJECTS INCLUDED

Promises under seal in general, and more particularly such promises relating to the title, possession or use of real property

Their nature, requisites, validity, incidents, construction, operation and effect

What constitutes breach of covenant, and actions therefor

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Actions of covenant, see COVENANT, ACTION OF

Common interest communities, see COMMON INTEREST COMMUNITIES

Compelling performance of covenants, see SPECIFIC PERFORMANCE

Conditions, provisos, etc., see DEEDS, CONTRACTS and other specific topics

Estoppel, operation of covenants as, especially as to after-acquired title, see ESTOPPEL

Injunction against breach of covenants, see INJUNCTION

Instruments containing covenants, requisites, validity and effect, and covenants incident to particular classes of instruments, see CONTRACTS, DEEDS, LANDLORD AND TENANT, MORTGAGES AND DEEDS OF TRUST, and other specific topics

I. REQUISITES AND VALIDITY, ¶1-20.

(A) EXPRESS COVENANTS, ¶1-7.

(B) IMPLIED COVENANTS, ¶8-20.

II. CONSTRUCTION AND OPERATION, ¶21-84.

(A) COVENANTS IN GENERAL, ¶21-37.

(B) COVENANTS OF TITLE, ¶38-48.

(C) COVENANTS AS TO USE OF REAL PROPERTY, ¶49-52.

(D) COVENANTS RUNNING WITH THE LAND, ¶53-84.

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I. REQUISITES AND VALIDITY.

(A) EXPRESS COVENANTS.

1. Nature and essentials in general.
2. Parties.
3. Formal requisites in general.
4. Statutory forms.
5. Forms of particular covenants.
6. Execution and delivery of instrument.
7. Acceptance of deed containing covenants on part of grantee.

108. COVENANTS

(B) IMPLIED COVENANTS.

8. Nature and grounds in general.
9. Statutory provisions.
10. — In general.
11. — Abolition or restriction of implied covenants.
12. Words of conveyance.
13. — In general.
14. — Particular words.
15. Language of express covenants.
16. Recitals.
17. Description of premises.
18. Reservations.
19. Conditions.
20. Restrictions on use of property.

II. CONSTRUCTION AND OPERATION.

(A) COVENANTS IN GENERAL.

21. General rules of construction.
22. What law governs.
24. Collateral and auxiliary covenants.
25. Alternative and disjunctive covenants.
26. Dependent or independent covenants.
27. Parties to covenants.
28. Joint or several covenants.
29. Persons entitled to enforce personal covenants.
30. Persons liable on personal covenants.
31. Subject-matter in general.
32. Limitations and exceptions in covenants.
33. Limitation to premises conveyed.
34. Limitation to estate conveyed.
35. Limitation by other covenants.
36. Duration of personal covenants.
37. Release or discharge from liability on personal covenants.

(B) COVENANTS OF TITLE.

38. Nature and operation in general.
39. Knowledge of parties as to defects in title or incumbrances.
40. Covenant of seisin.
41. Covenant of right to convey.
42. Covenant against incumbrances.
 - (1). In general.
 - (2). Taxes and assessments.
 - (3). Easements.
43. Covenant for quiet enjoyment.
44. Covenant for further assurance.

II. CONSTRUCTION AND OPERATION.(Cont'd)

45. Covenant of warranty.
46. — In general.
47. — General warranty.
48. — Special warranty.

(C) COVENANTS AS TO USE OF REAL PROPERTY.

49. Nature and operation in general.
51. Buildings or other structures or improvements.
 - (1). In general.
 - (2). Buildings in general.
 - (3). Tenement houses.
52. Particular occupations; nuisances.

(D) COVENANTS RUNNING WITH THE LAND.

53. Covenants which may run with land in general.
54. Statutory provisions.
55. Property to which real covenant may be annexed.
56. Estate or interest to which real covenant may be annexed.
57. Necessity of privity of estate between covenantor and covenantee.
58. Covenant as part of conveyance.
59. Covenant for heirs and assigns.
61. Covenants conferring benefits in general.
62. Covenant of seisin.
63. Covenant of right to convey.
64. Covenant against incumbrances.
65. Covenant for quiet enjoyment.
66. Covenant for further assurance.
67. Covenant of warranty.
68. Covenants imposing burdens in general.
69. Covenants as to use of property.
 - (1). In general.
 - (2). Buildings or other structures or improvements.
 - (3). Nuisances and particular occupations.
70. Covenants creating easement, lien, or charge.
71. Duration of real covenants.
- 71.5. Amendment or modification of covenants.
72. Release or discharge from liability on real covenants.
- 72.1. — In general.
73. — Agreement of parties.

108. COVENANTS

II. CONSTRUCTION AND OPERATION.(Cont'd)

- 74. — Acts or omissions of covenantor.
- 75. — Merger or revesting of estate in covenantor.
- 76. — Reconveyance with similar covenants.
- 77. Persons entitled to enforce real covenants.
- 77.1. — In general.
- 78. — Covenantees.
- 79. — Grantees and assignees in general.
 - (1). In general.
 - (2). Taking conveyance after breach.
 - (3). Covenants as to use of real property.
- 80. — Conveyance as transfer of covenant.
- 81. — Privity of estate between covenantor and grantee.
- 82. — Devises.
- 83. — Heirs.
- 84. Persons liable on real covenants.

III. PERFORMANCE OR BREACH.

- 85. Obligation to perform in general.
- 86. Demand of performance in general.
- 87. Notice to maintain or defend title.
- 87.1. — In general.
- 88. — Necessity.
- 89. — Sufficiency.
- 90. — Effect on liability in general.
- 91. Sufficiency of performance in general.
- 92. Breach in general.
- 93. Covenants of title in general.
- 94. Covenant of seisin.
- 95. Covenant of right to convey.
- 96. Covenant against incumbrances.
 - (1). In general.
 - (2). Dower.
 - (3). Leases.
 - (4). Mortgages.
 - (5). Judgments.
 - (6). Taxes and assessments.
 - (7). Easements.
 - (8). Restrictions as to use of property.
- 97. Covenant for quiet enjoyment.
- 98. Covenant for further assurance.
- 99. Covenant of warranty.
- 99.1. — In general.
- 100. — Breach in general.

III. PERFORMANCE OR BREACH.(Cont'd)

- (1). In general.
 - (2). Liens and mortgages.
 - (3). Taxes and assessments.
 - (4). Railroad right of way.
 - (5). Description of premises.
 - 101. — Paramount title or right.
 - 102. — Eviction.
 - (5). In general.
 - (1). Necessity.
 - (2). Sufficiency.
 - 103. Covenants as to use of property.
 - (1). In general.
 - (2). Buildings.
 - (3). Waiver of breach.
- ### IV. ACTIONS FOR BREACH.
- 104. Nature and form of remedy.
 - 105. What law governs.
 - 106. Grounds of action in general.
 - 107. Conditions precedent.
 - 108. Defenses.
 - (1). In general.
 - (2). Other breaches.
 - (3). Want or failure of consideration.
 - 109. Jurisdiction and venue.
 - 110. Time to sue, limitations, and laches.
See also LIMITATION OF ACTIONS.
 - 111. Parties.
 - 112. Process and appearance.
 - 113. Pleading.
 - 113.1. — In general.
 - 114. — Declaration, complaint, or petition.
 - (1). In general.
 - (2). Averments as to parties.
 - (3). Setting forth covenant.
 - (4). Averment of performance of conditions precedent.
 - (5). Allegations as to paramount claim.
 - 115. — Plea or answer, and subsequent pleadings.
 - 116. — Issues, proof, and variance.
 - 117. Evidence.
 - 117.1. — In general.
 - 118. — Presumptions and burden of proof.
 - 119. — Admissibility in general.
 - 120. — Judgment as evidence of eviction.

108. COVENANTS

IV. ACTIONS FOR BREACH.(Cont'd)

- 121. — Judgment as evidence of paramount title or right.
 - (5). In general.
 - (1). Admissibility.
 - (2). Conclusiveness and effect in general.
 - (3). Conclusiveness of judgment obtained after notice to covenantor.
- 122. — Weight and sufficiency.
- 123. Damages.
- 124. — In general.
- 125. — Covenant of seisin.
 - (1). In general.
 - (2). Nominal or substantial damages.
 - (3). Recovery of purchase money with interest.
 - (4). Partial breach.
 - (5). Value of improvements.
- 126. — Covenant of right to convey.
- 127. — Covenant against incumbrances.
 - (1). In general.
 - (2). Nominal damages.
 - (3). Purchase money.
 - (4). Amount of actual damage, or of incumbrance.
 - (5). Amount of judgment against plaintiff, and costs.
 - (6). Unexpired term of lease.
- 128. — Covenant for quiet enjoyment.
- 129. — Covenant for further assurance.
- 130. — Covenant of warranty.
 - (1). In general.
 - (2). Nominal damages.
 - (3). Amount paid to quiet title.
 - (4). Purchase money and interest, and expenses.
 - (5). Loss of part of tract.
 - (6). Value of improvements.
 - (7). Amount or value of property received by covenantor.
- 131. — Interest.
- 132. — Costs and expenses of litigation.
 - (1). In general.
 - (2). Attorney fees.
- 133. Trial.
- 133.1. — In general.
- 134. — Questions for jury.

IV. ACTIONS FOR BREACH.(Cont'd)

- 135. — Instructions.
- 136. — Verdict and findings.
- 137. Judgment.
- 138. Execution.
- 140. Effect of recovery on title to property.

108H. CREDITORS' REMEDIES

SUBJECTS INCLUDED

Rights and remedies as between debtors and creditors, particularly in connection with the enforcement of money judgments, whether before or after such judgments are obtained, against debtors and their property and credits, whether possessed by the debtor or by third persons

More particularly, the remedies of attachment, execution, garnishment, trustee process, income execution, creditors' suits and other supplementary proceedings in aid of execution, and postjudgment discovery; and collective remedies other than bankruptcy, including assignments for benefit of creditors, compositions with creditors, insolvency proceedings, and marshaling assets and securities

Nature and scope of such remedies, and property and credits subject thereto

Grounds of such remedies, and jurisdiction over and proceedings to obtain them

Issuance, requisites, and validity of writs or other process or notice for obtaining such remedies, and correction and amendment thereof

Levy or service, return thereof, and liens and priorities acquired thereby

Relief against such remedies, including quashing, vacating, or setting aside writs; dissolution or discharge on giving security; and restraining or staying enforcement

Sales under execution, redemption of property sold, or conveyance thereof by officer to purchaser

Claims of third persons to subject matter, and interventions and proceedings thereon

108H. CREDITORS' REMEDIES

Liabilities on bonds, undertakings or other security given to obtain, dissolve, discharge, etc., such remedies

Liabilities of persons other than officers for wrongful obtaining such remedies

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Abuse of process, see PROCESS

Admiralty, enforcement of decrees and orders, see ADMIRALTY

Bankruptcy laws and proceedings thereunder, see BANKRUPTCY

Charging orders, see CORPORATIONS AND BUSINESS ORGANIZATIONS, PARTNERSHIP

Corporations, matters peculiar to remedies by or against, see CORPORATIONS AND BUSINESS ORGANIZATIONS

Criminal prosecutions, execution of sentence, see PRISONS, SENTENCING AND PUNISHMENT

Direct action by injured person against tortfeasor's liability insurer, see INSURANCE

Enforcement of non-money judgments, and of judgments generally, see JUDGMENT XIX

Equity, enforcement of decrees and orders other than for payment of money, see RECEIVERS, SEQUESTRATION, EQUITY, JUDICIAL SALES, ASSISTANCE, WRIT OF, CONTEMPT

Exemption of property from creditors' remedies, and protection of exemption rights, see EXEMPTIONS, HOMESTEAD

Fair debt collection practices, see ANTI-TRUST AND TRADE REGULATION III

Federal Debt Collection Procedure Act, see UNITED STATES ¶1205

Fraudulent conveyances, see FRAUDULENT CONVEYANCES

Justices of the peace, remedies on judgments of, see JUSTICES OF THE PEACE

Malicious prosecution, see MALICIOUS PROSECUTION

Municipal corporations, remedies by or against, see MUNICIPAL CORPORATIONS

Municipal courts and similar special courts, remedies on judgments rendered by, see COURTS

Officers' duties and liabilities in respect of issuance, levy, service, and return of writs

or other process or notice, see CLERKS OF COURTS, SHERIFFS AND CONSTABLES, and topics relating to other specific officers

Particular causes or forms of action, or proceedings other than actions, see CHILD SUPPORT, DIVORCE, and other specific topics

Particular classes of demands, liens, etc., enforcement of, see LANDLORD AND TENANT, MARITIME LIENS, PARTNERSHIP, and other specific topics

Pendency of action, and notice thereof, as binding real property subject to action, see LIS PENDENS

Replevin, see REPLEVIN

Review of proceedings, see APPEAL AND ERROR, FEDERAL COURTS

Revival of judgment for purpose of issuing execution, see JUDGMENT XIX

Satisfaction of judgment, see JUDGMENT XX

Sequestration of specific property to preserve it pending litigation, see SEQUESTRATION

Stay of execution pending appeal, see APPEAL AND ERROR, FEDERAL COURTS

Supersedeas of execution, see SUPERSEDEAS

I. IN GENERAL, ¶1-20.

II. PROPERTY OR OTHER SUBJECT MATTER WHICH CREDITORS MAY REACH, ¶21-100.

(A) IN GENERAL, ¶21-50.

(B) DEBTOR'S RIGHTS, CLAIMS, AND CREDITS AGAINST OTHERS, ¶51-70.

(C) OWNERSHIP OR POSSESSION OF SUBJECT MATTER, ¶71-100.

III. PREJUDGMENT REMEDIES IN GENERAL, ¶101-120.

IV. POSTJUDGMENT REMEDIES IN GENERAL, ¶121-140.

V. PARTICULAR REMEDIES—ATTACHMENT, ¶141-320.

(A) IN GENERAL, ¶141-160.

(B) RIGHT TO ATTACHMENT; GROUNDS, DEFENSES, AND FACTORS CONSIDERED, ¶161-190.

(C) PROCEEDINGS, ¶191-260.

108H. CREDITORS' REMEDIES

V. PARTICULAR REMEDIES—ATTACHMENT—Cont'd

- (D) OPERATION AND EFFECT OF ATTACHMENT, ¶261-270.
- (E) RELIEF AGAINST ATTACHMENT, ¶271-300.
- (F) NONRESIDENT DEBTORS; FOREIGN ATTACHMENT, ¶301-310.
- (G) POSTJUDGMENT ATTACHMENT, ¶311-320.

VI. PARTICULAR REMEDIES—EXECUTION, ¶321-640.

- (A) IN GENERAL, ¶321-340.
- (B) PROCEEDINGS, ¶341-410.
 - 1. IN GENERAL; ISSUANCE OF WRIT, ¶341-370.
 - 2. LEVY, ¶371-400.
 - 3. RETURN, ¶401-410.
- (C) OPERATION AND EFFECT OF EXECUTION, ¶411-430.
- (D) RELIEF AGAINST EXECUTION, ¶431-480.
 - 1. IN GENERAL, ¶431-450.
 - 2. STAY OR SUSPENSION OF EXECUTION, ¶451-460.
 - 3. RESTRAINING EXECUTION; INJUNCTION, ¶461-480.
- (E) EXECUTION SALE, ¶481-620.
 - 1. IN GENERAL; MANNER, CONDUCT, AND VALIDITY, ¶481-520.
 - 2. POST-SALE RELIEF; OPENING, VACATING, OR SETTING ASIDE, ¶521-540.
 - 3. TITLE AND RIGHTS OF PURCHASER, ¶541-570.
 - 4. REDEMPTION, ¶571-590.
 - 5. CONVEYANCE TO PURCHASER, ¶591-610.
 - 6. DISTRIBUTION OF PROCEEDS, ¶611-620.
- (F) PAYMENT OR OTHER SATISFACTION OF EXECUTION, ¶621-630.
- (G) EXECUTION AGAINST THE PERSON, ¶631-640.

VII. PARTICULAR REMEDIES—GARNISHMENT, ¶641-930.

- (A) IN GENERAL, ¶641-670.
- (B) RIGHT TO GARNISHMENT; GROUNDS, DEFENSES, AND FACTORS CONSIDERED, ¶671-690.
- (C) PROCEEDINGS, ¶691-850.
 - 1. IN GENERAL, ¶691-700.
 - 2. JURISDICTION AND VENUE, ¶701-720.

VII. PARTICULAR REMEDIES—GARNISHMENT—Cont'd

- (C) PROCEEDINGS—Cont'd
- 3. INITIATION OF PROCEEDINGS, ¶721-740.
- 4. PARTIES, PROCESS, AND APPEARANCE, ¶741-760.
- 5. DISCLOSURE AND DISCOVERY, ¶761-790.
- 6. EVIDENCE, ¶791-810.
- 7. HEARING AND DETERMINATION, ¶811-830.
- 8. ENFORCEMENT, ¶831-840.
- 9. COSTS AND FEES, ¶841-850.
- (D) OPERATION AND EFFECT OF GARNISHMENT, ¶851-880.
 - 1. IN GENERAL, ¶851-870.
 - 2. OPERATION AND EFFECT OF JUDGMENT OR ORDER IN GARNISHMENT PROCEEDINGS, ¶871-880.
- (E) RELIEF AGAINST GARNISHMENT, ¶881-900.
- (F) PAYMENT OR OTHER SATISFACTION OF GARNISHMENT, ¶901-910.
- (G) PREJUDGMENT GARNISHMENT, ¶911-930.

VIII. PARTICULAR REMEDIES—SUPPLEMENTARY PROCEEDINGS AND SIMILAR REMEDIES IN AID OF EXECUTION, ¶931-1000.

- (A) IN GENERAL, ¶931-950.
- (B) COURSE AND CONDUCT OF PROCEEDINGS, ¶951-970.
- (C) RECEIVERS, ¶971-990.
- (D) ENFORCEMENT OF JUDGMENT, ORDER, OR DECREE, ¶991-1000.

IX. PARTICULAR REMEDIES—POSTJUDGMENT DISCOVERY, ¶1001-1040.

X. PARTICULAR REMEDIES—REMEDIES AGAINST DEBTOR'S EARNINGS, WAGES, AND OTHER INCOME, ¶1041-1080.

XI. ASSERTION OF CLAIMS BY THIRD PERSONS, ¶1081-1110.

XII. LIABILITIES ON BONDS, UNDERTAKINGS, OR OTHER SECURITY, ¶1111-1130.

XIII. DEBTORS' REMEDIES AGAINST CREDITORS, ¶1131-1170.

XIV. COLLECTIVE REMEDIES, ¶1171-1193.

I. IN GENERAL.

- 1. In general.

108H. CREDITORS' REMEDIES

I. IN GENERAL.(Cont'd)

2. What is debt; nature and definition.
3. Debtor-creditor relationship.
Borrower-lender relationship, see FINANCE, BANKING, AND CREDIT II.
4. — In general.
6. — Fiduciary duties.
7. Actions and proceedings in general.
8. Action of debt.
9. Insolvency and insolvent debtors in general.
Insolvency proceedings, see ¶1183.
10. Exclusive, concurrent, and conflicting remedies.
11. — In general.
12. — Prejudgment remedies.
13. — Remedies against insurers.
14. — Legal or equitable remedies.
15. What law governs.
16. Federal preemption.
See also STATES I(B).

II. PROPERTY OR OTHER SUBJECT MATTER WHICH CREDITORS MAY REACH.

Debtor's earnings, wages, and other income, see ¶1052. Property subject to collective remedies, see XIV. Exemptions from forced sale, see EXEMPTIONS, HOMESTEAD.

(A) IN GENERAL.

21. In general.
22. Real or personal property in general.
23. Legal or equitable interests in general.
24. Contingency and certainty of interest in general.
25. Assignability or transferability of interest in general.
26. Contractual interests in general.
27. Mortgaged, pledged, or otherwise encumbered property.
28. Rights or interests secured by liens.
29. Interests in corporations and other organizations.
30. Interests under wills, trusts, and estates.
31. Interests under leases.
32. Money.
33. Instruments and securities for payment of money.
34. Pensions and retirement funds.
35. Intangible and intellectual property.
36. Internet domain names and websites.
37. Licenses, franchises, and privileges.

II. PROPERTY OR OTHER SUBJECT MATTER WHICH CREDITORS MAY REACH.(Cont'd)

38. Crops, timber, and fixtures.
39. Public property, institutions, or lands.
40. Private property used for public purpose.

(B) DEBTOR'S RIGHTS, CLAIMS, AND CREDITS AGAINST OTHERS.

51. In general.
52. Rights of action in general.
53. Certainty, maturity, and contingency in general.
54. Tort claims.
55. Verdicts.
56. Judgments.
57. Settlements and payments thereon.
58. Insurers and insurance policies.
59. — In general.
60. — Tort claims; bad faith.
61. Effect of payment in advance.

(C) OWNERSHIP OR POSSESSION OF SUBJECT MATTER.

71. In general.
72. Subject matter held by persons other than debtor.
73. — In general.
74. — Garnishees in general.
75. — Agents and brokers.
76. — Attorneys.
77. — Bailees, consignees, and carriers.
78. — Financial institutions and intermediaries.
79. — Public entities, officers, and employees.
80. Subject matter in custody of the law.
81. — In general.
82. — Deposits and funds in court.
83. — Property held under judicial process.
84. — Property held by executors, administrators, guardians, or trustees.
85. Subject matter in escrow.
86. Subject matter transferred by debtor.
87. — In general.
88. — Proceeds of transfer.
89. Joint or several ownership or possession.
90. Disputed ownership or possession.

108H. CREDITORS' REMEDIES

III. PREJUDGMENT REMEDIES IN GENERAL.

101. In general.
102. Claims on which prejudgment remedies are authorized.
103. Right to prejudgment remedies; grounds, defenses, and factors considered.
104. — In general.
105. — Probable cause; likelihood of success.
106. Persons entitled to prejudgment remedies.
107. Persons subject to prejudgment remedies.
108. Proceedings.
109. — In general.
110. — Affidavits and evidence.
111. — Amount of award.
112. Operation and effect.
113. — In general.
114. — Lien and priority.
115. Relief against prejudgment remedies.

IV. POSTJUDGMENT REMEDIES IN GENERAL.

See also JUDGMENT XIX.

121. In general.
122. Actions and proceedings in which postjudgment remedies are authorized.
123. Judgments and orders on which postjudgment remedies are authorized.
124. Right to postjudgment remedies; grounds, defenses, and factors considered.
125. Persons entitled to postjudgment remedies.
126. Persons subject to postjudgment remedies.
127. Proceedings.
128. Operation and effect.
129. — In general.
130. — Lien and priority.
131. Relief against postjudgment remedies.

V. PARTICULAR REMEDIES—ATTACHMENT.

(A) IN GENERAL.

141. In general.
142. Attachment as legal or equitable remedy.

V. PARTICULAR REMEDIES—ATTACHMENT.(Cont'd)

143. Attachment as harsh or extraordinary remedy.
 144. Claims on which attachment is authorized.
 145. — In general.
 146. — Contracts in general.
 147. — Torts in general.
 148. — Certainty, maturity, and contingency.
 149. Persons entitled to attachment.
 150. Persons subject to attachment.
 151. Simultaneous and successive attachments.
- (B) RIGHT TO ATTACHMENT; GROUNDS, DEFENSES, AND FACTORS CONSIDERED.
161. In general.
 162. Attachment as discretionary remedy.
 163. Factors concerning claim or cause of action.
 164. — In general.
 165. — Probable cause; likelihood of success.
 - (1). In general.
 - (2). Particular cases.
 166. — Amount of claim or demand.
 - (1). In general.
 - (2). Particular cases.
 167. Factors concerning debtor.
 168. — In general.
 169. — Insolvency or inability to satisfy demand.
 170. — Refusal to pay or secure demand.
 171. — Absconding, absence, or concealment.
 - (1). In general.
 - (2). Intended absconding, absence, or concealment.
 172. — Acts in official or fiduciary capacity.
 173. — Fraud in contracting or incurring liability.
 174. — Criminal act in incurring liability.
 175. Factors concerning debtor's property.
 176. — In general.
 177. — Removal or concealment of property.

108H. CREDITORS' REMEDIES

V. PARTICULAR REMEDIES— ATTACHMENT.(Cont'd)

178. — Fraudulent transfer or other disposition of property.
Includes attachment of property of debtor generally. Excludes attachment as remedy for reaching particular property fraudulently transferred, see FRAUDULENT CONVEYANCES §228.
179. — Intended removal, concealment, transfer, or other disposition.
180. Waiver or loss of right.

(C) PROCEEDINGS.

191. In general.
192. Right to notice and hearing in general.
193. Authority of courts, judges, and judicial officers in general.
194. Jurisdiction.
195. — In general.
196. — Personal jurisdiction.
197. — Jurisdiction of property attached.
198. Venue.
Change of venue, see VENUE III.
199. Time for proceedings; limitations and laches.
200. Parties.
201. Process.
Service of writ or warrant of attachment, see §240.
202. Appearance.
203. Bond, undertaking, or other security.
204. — In general.
205. — Parties by whom and to whom given.
206. — Form, requisites, and sufficiency.
207. — Amendment; additional or new security.
208. — Defects, objections, and waiver.
209. — Operation and effect.
210. Pleadings and motions.
211. Affidavits.
212. — In general.
213. — Persons who may make; authority to take.
214. — Form, requisites, and sufficiency.
215. — Amendment; supplemental affidavits.
216. — Defects, objections, and waiver.
217. — Operation and effect.
218. Responsive pleadings, motions, and affidavits.
219. Evidence in general.

V. PARTICULAR REMEDIES— ATTACHMENT.(Cont'd)

220. Presumptions, inferences, and burden of proof.
221. Admissibility of evidence.
222. Weight and sufficiency of averments and evidence.
223. — In general.
224. — Probable cause; likelihood of success.
225. — Amount of claim or demand.
226. Trial or hearing.
227. — In general.
228. — Questions of law or fact.
229. — Instructions.
230. — Verdict or findings.
231. Judgment or order.
232. — In general.
233. — Default, and relief therefrom.
234. Costs and fees.
235. Writ or warrant of attachment.
236. — In general.
237. — Form, requisites, and sufficiency.
238. — Amendment; supplemental writs; variance.
239. — Defects, objections, and waiver.
240. — Service.
241. — Return.
242. Levy.
243. — In general.
244. — Authority and powers of levying officer.
245. — Mode and sufficiency of levy.
(1). In general.
(2). Personal property in general.
(3). Particular kinds or items of property.
(4). Shares of stock.
(5). Contracts and instruments for payment of money.
(6). Real property.
246. — Notice of levy.
247. Inventory and appraisalment.
248. Amount of property attached; excessive levy.
249. Enforcement in general.
250. Discovery in aid of attachment.
- (D) OPERATION AND EFFECT OF ATTACHMENT.
261. In general.

108H. CREDITORS' REMEDIES

V. PARTICULAR REMEDIES— ATTACHMENT.(Cont'd)

- 262. Lien and priority.
- 263. — In general.
- 264. — Commencement, perfection, and duration.
- 265. — Priorities between attachments.
- 266. — Priorities against other liens or claims.
- 267. Property acquired after attachment.
- 268. Property transferred after attachment.
- 269. Custody and disposition of property.

(E) RELIEF AGAINST ATTACHMENT.

- 271. In general.
- 272. Right to relief; grounds, defenses, and factors considered.
- 273. — In general.
- 274. — Defects or irregularities in proceedings.
- 275. — Causes subsequent to attachment.
- 276. Persons entitled to seek or oppose relief.
- 277. Proceedings to obtain relief.
- 278. — In general.
- 279. — Jurisdiction and venue.
- 280. — Time for proceedings; limitations and laches.
- 281. — Pleadings, motions, and affidavits.
- 282. — Evidence and effect of affidavits.
- 283. — Hearing and determination.
- 284. — Judgment or order.
- 285. Bond, undertaking, or other security.
- 286. Abandonment, withdrawal, and voluntary dismissal.
- 287. Operation and effect.
- 288. Return of property or other restitution.
- 289. Damages and costs on granting relief.
- 290. Restoration or reinstatement of attachment.

(F) NONRESIDENT DEBTORS; FOREIGN ATTACHMENT.

- 301. In general.
- 302. Claims on which foreign attachment is authorized.
- 303. Right to remedy; grounds, defenses, and factors considered.
- 304. Proceedings.
- 305. Operation and effect.
- 306. — In general.

V. PARTICULAR REMEDIES— ATTACHMENT.(Cont'd)

- 307. — Lien and priority.
- 308. Relief against foreign attachment.
- 309. Garnishment via foreign attachment.

(G) POSTJUDGMENT ATTACHMENT.

- 311. In general.
- 312. Judgments on which attachment is authorized.
- 313. Proceedings.
- 314. Operation and effect.
- 315. Relief against postjudgment attachment.

VI. PARTICULAR REMEDIES—EXECUTION.

Income execution, see X.

(A) IN GENERAL.

- 321. In general.
- 322. Particular forms of execution.
- 323. Actions and proceedings in which execution is authorized.
- 324. Judgments and orders on which execution is authorized.
- 325. — In general.
- 326. — Necessity.
- 327. — Nature and form.
- 328. — Validity.
- 329. — Entry, record, and docketing.
- 330. — Finality.
- 331. — Foreign judgments and orders.
- 332. — Judgments and orders of inferior courts.
- 333. — Effect of events subsequent to judgment or order.
 - (1). In general.
 - (2). Payment or satisfaction of judgment.
- 334. — Old or stale judgments and orders.
- 335. — Creation or existence of judgment lien.
- 336. Right to execution; grounds, defenses, and factors considered.
- 337. Persons entitled to execution.
- 338. Persons subject to execution.
- 339. Simultaneous and successive executions.

(B) PROCEEDINGS.

1. IN GENERAL; ISSUANCE OF WRIT.

- 341. In general.

108H. CREDITORS' REMEDIES

VI. PARTICULAR REMEDIES— EXECUTION.(Cont'd)

- 342. Right to notice and hearing in general.
- 343. Jurisdiction and authority to issue and control.
- 344. Time for issuance.
- 345. — In general.
- 346. — Prematurity.
- 347. Discretion to issue; leave of court.
- 348. — In general.
- 349. — Lapse of time.
- 350. Order for issuance.
- 351. Form, requisites, and sufficiency of writ.
- 352. — In general.
- 353. — Statement of amount.
- 354. — Conformity to judgment or verdict.
- 355. — Amendment.
- 356. Renewal and reissue.
- 357. New or additional writs.
- 358. Defects, objections, and waiver.
- 359. Service of writ.
- 360. Control and direction by parties.

2. LEVY.

- 371. In general.
- 372. Authority and powers of levying officer.
- 373. Time for levy.
- 374. Mode and sufficiency of levy.
- 375. — In general.
- 376. — Demand and selection of property.
- 377. — Personal property in general.
- 378. — Particular interests in personal property.
- 379. — Corporate stock.
- 380. — Rights of action in general.
- 381. — Exhaustion of personalty before levy on realty.
- 382. — Real property and interests therein.
- 383. Levy on property taken under other process.
- 384. Successive levies under same writ.
- 385. Notice of levy.
- 386. Indorsement or entry of levy.
- 387. — In general.
- 388. — Description of property.
- 389. Inventory and appraisalment.

VI. PARTICULAR REMEDIES— EXECUTION.(Cont'd)

- 390. Amount of property taken; excessive levy.
- 391. Defects, objections, and waiver.

3. RETURN.

- 401. In general.
- 402. Time for making.
- 403. Form, requisites, and sufficiency.

(C) OPERATION AND EFFECT OF EXECUTION.

- 411. In general.
- 412. Operation and effect of levy in general.
- 413. Operation and effect of return in general.
- 414. Lien and priority.
- 415. — In general.
- 416. — Commencement, perfection, and duration.
- 417. — Priorities between executions.
- 418. — Priorities against other liens or claims.
- 419. Property acquired after execution.
- 420. Property transferred after execution.
- 421. Effect of death of party after issuance of writ.
- 422. Custody and disposition of property.
Sale, see VI(E).

(D) RELIEF AGAINST EXECUTION.

Post-sale relief, see VI(E)2.

1. IN GENERAL.

- 431. In general.
- 432. Right to relief; grounds, defenses, and factors considered.
- 433. — In general.
- 434. — Causes subsequent to execution.
- 435. Proceedings for relief.
- 436. Bond, undertaking, or other security.
- 437. Abandonment, withdrawal, and voluntary dismissal.
- 438. Operation and effect.
- 439. Damages and costs on granting relief.
- 440. Restoration or reinstatement of execution.

2. STAY OR SUSPENSION OF EXECUTION.

- 451. In general.

108H. CREDITORS' REMEDIES

VI. PARTICULAR REMEDIES— EXECUTION.(Cont'd)

- 452. Discretion in general.
- 453. Grounds.
- 454. Proceedings.
- 455. Security or other conditions.
- 456. Operation and effect.
- 457. Agreement to stay or suspend execution.

3. RESTRAINING EXECUTION; INJUNCTION.

Post-sale relief, see VI(E)2.

- 461. In general.
- 462. Grounds.
- 463. — In general.
- 464. — Existence and adequacy of other remedy and irreparable injury.
- 465. — Attack on judgment or execution.
- 466. — Claim of property by third person, and cloud on title.
- 467. Proceedings.
- 468. — In general.
- 469. — Jurisdiction and venue.
- 470. — Time for proceedings, laches, and conditions precedent.
- 471. — Persons entitled and parties to proceedings.
- 472. — Pleading.
- 473. — Evidence.
- 474. — Hearing and determination.
- 475. — Relief; damages and costs.
- 476. Temporary or preliminary injunction.
- 477. Damages and costs on dissolving injunction.

(E) EXECUTION SALE.

Includes sheriff's sale.

1. IN GENERAL; MANNER, CONDUCT, AND VALIDITY.

- 481. In general.
- 482. Authority to sell.
- 483. — In general.
- 484. — Venditioni exponas.
- 485. Powers of officer in making sale.
- 486. Mode of sale.
- 487. Place of sale.
- 488. Time of sale.
- 489. Notice of sale.
- 490. — In general.
- 491. — Requisites and sufficiency in general.

VI. PARTICULAR REMEDIES— EXECUTION.(Cont'd)

- 492. — Time for notice.
- 493. — Description of property.
- 494. Postponement or stay.
- 495. Sale in parcels.
- 496. Order of offering for sale.
- 497. Conduct of sale in general.
- 498. Terms and conditions.
- 499. Persons who may purchase.
- 500. Bids.
- 501. — In general.
- 502. — Withdrawal.
- 503. — Acceptance or rejection.
- 504. Payment of bid.
- 505. — In general.
- 506. — Purchase by creditor.
- 507. Failure to comply with bid.
- 508. — In general.
- 509. — Resale.
- 510. — Liabilities of bidders.
- 511. — Actions on bids; summary proceedings.
- 512. Entry and record of sale.
- 513. Certificate of sale.
- 514. Confirmation.
- 515. Persons who may question validity of sale.
- 516. — In general.
- 517. — Waiver and estoppel.
- 518. Presumption of validity.

2. POST-SALE RELIEF; OPENING, VACATING, OR SETTING ASIDE.

Enjoining or otherwise restraining sale, see VI(D)3.

- 521. In general.
- 522. Discretion in general.
- 523. Grounds.
- 524. — In general.
- 525. — Defects or irregularities in execution or levy.
- 526. — Irregularities or misconduct affecting sale.
- 527. — Inadequacy of price in general.
- 528. — Inadequacy of price in connection with other objections.
 - (1). In general.
 - (2). Irregularities affecting sale.
- 529. Proceedings.
- 530. — In general.

108H. CREDITORS' REMEDIES

VI. PARTICULAR REMEDIES— EXECUTION. (Cont'd)

- 531. — Time for proceedings; limitations and laches.
- 532. — Pleading, motion, or other application.
- 533. — Evidence.
- 534. — Hearing and determination.
- 535. Security or other conditions.
- 536. Operation and effect.
- 537. Collateral attack.

3. TITLE AND RIGHTS OF PURCHASER.

- 541. In general.
- 542. Property passing by sale.
- 543. Estate or interest acquired.
- 544. — In general.
- 545. — Particular estates or interests.
- 546. — Time as of which title vests in purchaser.
- 547. Rights passing as incidents.
- 548. Liens, encumbrances, and equities.
- 549. Bona fide purchasers.
- 550. — In general.
- 551. — Notice.
- 552. — Judgment creditor as purchaser.
- 553. — Determination of question of bona fides.
- 554. Effect of defects or irregularities in execution, levy, or sale.
- 555. Effect of modification, vacation, or reversal of judgment.
- 556. Possession.
- 557. — In general.
- 558. — During period for redemption.
- 559. — Remedies for recovery, and proceedings thereon.
- 560. Rents and profits.
- 561. Waste.
- 562. Actions to confirm or try title.
- 563. Rights and remedies on avoidance of sale or failure of title.
- 564. — In general.
- 565. — Reimbursement.
- 566. — Recourse to parties or officer.
- 567. Liabilities of purchasers.
- 568. Assignees of certificates of sale.
- 569. Purchasers from execution purchasers.

4. REDEMPTION.

- 571. In general; right to redeem.
- 572. Equitable or statutory nature in general.
- 573. Persons entitled to redeem.
- 574. Persons against whom redemption may be had.
- 575. Loss of right to redeem; waiver and estoppel.
- 576. Time for redemption; laches.
- 577. Amount required to redeem.
- 578. Tender and payment.
- 579. Actions and proceedings to redeem.
- 580. Defects, objections, and waiver.
- 581. Operation and effect.

5. CONVEYANCE TO PURCHASER.

- 591. In general.
- 592. Time for making.
- 593. Form and contents.
- 594. — In general.
- 595. — Recitals.
- 596. — Description of property.
- 597. Execution and delivery.
- 598. Recording and registration.
- 599. Amendment, reformation, or cancellation.
- 600. Construction and operation.
- 601. — In general.
- 602. — Conclusiveness of recitals.
- 603. — Relation back.

6. DISTRIBUTION OF PROCEEDS.

- 611. In general.
- 612. Mortgages and other liens.
- 613. Preferred claims.
- 614. Application to judgment.
- 615. Distribution among different judgments or executions.
- 616. Rights to surplus.
- 617. Proceedings for distribution.
- 618. Liabilities of purchaser as to application of proceeds.

(F) PAYMENT OR OTHER SATISFACTION OF EXECUTION.

- 621. In general.
- 622. Delivery of property.
- 623. Levy.
- 624. Sale.
- 625. Arrest of debtor.

108H. CREDITORS' REMEDIES

VI. PARTICULAR REMEDIES— EXECUTION.(Cont'd)

- 626. Set-off of executions.
- 627. Indorsement or entry of satisfaction.
- 628. Vacating entry of satisfaction.

(G) EXECUTION AGAINST THE PERSON.

- 631. In general.
- 632. Proceedings to procure.
- 633. Arrest, custody, and disposition of debtor.
- 634. Discharge.
- 635. Rearrest.

VII. PARTICULAR REMEDIES— GARNISHMENT.

Wage garnishment, see X.

(A) IN GENERAL.

- 641. In general.
- 642. Particular forms of garnishment.
- 643. — In general.
- 644. — Trustee process.
- 645. — Attachment execution.
- 646. Actions and proceedings in which garnishment is authorized.
- 647. Judgments and orders on which garnishment is authorized.
- 648. — In general.
- 649. — Necessity.
- 650. — Validity.
- 651. — Finality.
- 652. — Old or stale judgments and orders.
- 653. Executions on which garnishment is authorized.
- 654. Persons entitled to garnishment.
- 655. Persons subject to garnishment.
- 656. — In general.
- 657. — Corporations and other organizations.
- 658. — Financial institutions and intermediaries.
- 659. — Insurers.
- 660. — Public entities, officers, and employees.
- 661. — Parties to underlying action.
- 662. Simultaneous and successive garnishments.

(B) RIGHT TO GARNISHMENT; GROUNDS, DEFENSES, AND FACTORS CONSIDERED.

- 671. In general.
- 672. Factors concerning principal action.
- 673. Garnishee's defenses against judgment debtor.
- 674. — In general.
- 675. — Limitations.
- 676. — Claim to property by garnishee.
- 677. — Set-off or counterclaim.
- 678. — Insurer as garnishee.
- 679. — Financial institution or intermediary as garnishee.
- 680. Judgment debtor's defenses against garnishor.
- 681. Claims to property by third persons.

(C) PROCEEDINGS.

1. IN GENERAL.

- 691. In general.
- 692. Relation to principal action.
- 693. Applicable rules of procedure.
- 694. Right to notice and hearing in general.
- 695. Authority of courts, judges, and judicial officers in general.
- 696. Defects, objections, and waiver in general.

2. JURISDICTION AND VENUE.

- 701. In general.
- 702. Jurisdiction of principal action.
- 703. Personal jurisdiction.
- 704. — In general.
- 705. — Over judgment debtor.
- 706. — Over garnishee.
 - (1). In general.
 - (2). Nonresident garnishees.
- 707. Jurisdiction of property or other subject matter of garnishment.
- 708. — In general.
- 709. — Situs of property or indebtedness.
 - (1). In general.
 - (2). Place for payment as affecting situs.
- 710. Venue.
 - Change of venue, see VENUE III.*
- 711. Objections to jurisdiction or venue; waiver.

108H. CREDITORS' REMEDIES

3. INITIATION OF PROCEEDINGS.

- 721. In general.
- 722. Leave of court.
- 723. Time for proceedings; limitations and laches.
- 724. Bond, undertaking, or other security.
- 725. Pleadings, motions, and affidavits.
- 726. — In general.
- 727. — Form, requisites, and sufficiency in general.
- 728. — Particular cases.
- 729. — Defects, objections, and amendment.
- 730. Further or supplemental papers.

4. PARTIES, PROCESS, AND APPEARANCE.

- 741. In general.
- 742. Garnishee.
- 743. — In general.
- 744. — Summons or other notice to garnishee; writ of garnishment.
 - (1). In general.
 - (2). Form, requisites, and sufficiency.
 - (3). Service and levy.
 - (4). Return.
 - (5). Defects, objections, and amendment.
- 745. — Appearance by garnishee.
- 746. Judgment debtor.
- 747. — In general.
- 748. — Summons or other notice to judgment debtor.
 - (1). In general.
 - (2). Form, requisites, and sufficiency.
 - (3). Service.
 - (4). Return.
 - (5). Defects, objections, and amendment.
- 749. — Appearance by judgment debtor.
- 750. Bringing in other parties.
Intervention by other parties, see XI.

5. DISCLOSURE AND DISCOVERY.

- 761. In general.
- 762. Interrogatories in general.
- 763. Answer or disclosure of garnishee.
- 764. — In general.
- 765. — Persons who may make.
- 766. — Time for making.
- 767. — Form, requisites, and sufficiency.

VII. PARTICULAR REMEDIES— GARNISHMENT.(Cont'd)

- (1). In general.
- (2). Insurer as garnishee.
- (3). Financial institution or intermediary as garnishee.
- 768. — Amended and supplemental answers; further disclosure.
- 769. — Conclusiveness and effect.
- 770. Garnishor's response to garnishee's answer or disclosure.
- 771. — In general.
- 772. — Persons who may make.
- 773. — Time for making.
- 774. — Form, requisites, and sufficiency.
- 775. — Conclusiveness and effect.
- 776. Oral examination of garnishee; deposition.
- 777. Liabilities of garnishee on false or defective answer.
- 778. Failure of garnishee to answer or make disclosure; default.
- 779. — In general.
- 780. — Proceedings on default.
- 781. — Liabilities of garnishee.
- 782. Disclosure by parties other than garnishee.

6. EVIDENCE.

- 791. In general.
- 792. Answer as evidence.
- 793. Presumptions, inferences, and burden of proof.
- 794. — In general.
- 795. — Insurer as garnishee.
- 796. — Financial institution or intermediary as garnishee.
- 797. Admissibility.
- 798. Degree of proof.
- 799. Weight and sufficiency.
- 800. — In general.
- 801. — Insurer as garnishee.
- 802. — Financial institution or intermediary as garnishee.

7. HEARING AND DETERMINATION.

- 811. In general.
- 812. Scope of inquiry and powers of court.
- 813. Time for trial or hearing.
- 814. Questions of law or fact.

108H. CREDITORS' REMEDIES

VII. PARTICULAR REMEDIES— GARNISHMENT.(Cont'd)

- 815. Instructions.
- 816. Verdict and findings.
- 817. Judgment or order.
- 818. — In general.
- 819. — On answer or disclosure of garnishee.
- 820. — On failure of garnishee to answer or make disclosure; default.
- 821. — Notice before rendition or entry; conditional judgment and scire facias.
- 822. — Time for rendition or entry.
- 823. — Amount.
- 824. — Amendment and correction.
- 825. — Relief from judgment or order.
 - (1). In general.
 - (2). Relief from default.
- 826. Dismissal or discharge of garnishee.

8. ENFORCEMENT.

- 831. In general.
- 832. Equitable remedies in aid of garnishment.
- 833. — In general.
- 834. — Injunctive relief; restraining order.
- 835. Execution and enforcement of judgment.
- 836. Actions by garnishor against garnishee.
- 837. Contempt.

9. COSTS AND FEES.

- 841. In general.
- 842. Attorney fees.
- 843. Witness fees.
- 844. Costs and fees on appeal.

(D) OPERATION AND EFFECT OF GARNISHMENT.

1. IN GENERAL.

- 851. In general.
- 852. Rights, duties, and liabilities of judgment debtor.
- 853. Rights, duties, and liabilities of garnishee.
- 854. — In general.
- 855. — Liability to judgment debtor as measure.
- 856. — Liability for interest.
- 857. — Duties owed to judgment debtor.
- 858. Time of taking effect.

VII. PARTICULAR REMEDIES— GARNISHMENT.(Cont'd)

- 859. Lien and priority.
- 860. — In general.
- 861. — Commencement, perfection, and duration.
- 862. — Priorities between garnishments.
- 863. — Priorities against other liens or claims.
- 864. Property acquired or indebtedness incurred after garnishment.
- 865. Property transferred after garnishment.
- 866. Indebtedness paid after garnishment.
- 867. Insurer as garnishee.
- 868. Financial institution or intermediary as garnishee.

2. OPERATION AND EFFECT OF JUDGMENT OR ORDER IN GARNISHMENT PROCEEDINGS.

- 871. In general.
- 872. Judgment on default or admission.
- 873. Foreign judgment.
- 874. Judgment for garnishee.

(E) RELIEF AGAINST GARNISHMENT.

- 881. In general.
- 882. Right to relief; grounds, defenses, and factors considered.
- 883. — In general.
- 884. — Causes subsequent to garnishment.
- 885. Proceedings for relief.
- 886. — In general.
- 887. — Motions in general.
- 888. — Time for proceedings; limitations and laches.
- 889. — Evidence, hearing, and determination.
- 890. — Costs and fees.
- 891. Bond, undertaking, or other security.
- 892. Abandonment, withdrawal, and voluntary dismissal.
- 893. Operation and effect.
- 894. Restoration or reinstatement of garnishment.

(F) PAYMENT OR OTHER SATISFACTION OF GARNISHMENT.

- 901. In general.
- 902. Delivery of property.
- 903. Payment into court or to officer.

108H. CREDITORS' REMEDIES

VII. PARTICULAR REMEDIES— GARNISHMENT. (Cont'd)

904. Payment or delivery without judgment or order of court.

(G) PREJUDGMENT GARNISHMENT.

911. In general.
912. Actions and proceedings in which pre-judgment garnishment is authorized.
913. Right to prejudgment garnishment; grounds, defenses, and factors considered.
914. — In general.
915. — Probable cause; likelihood of success.
916. Proceedings; notice and hearing.
917. Operation and effect of prejudgment garnishment.
918. — In general.
919. — Lien and priority.
920. Relief against prejudgment garnishment.
921. Payment or other satisfaction of prejudgment garnishment.

VIII. PARTICULAR REMEDIES—SUPPLEMENTARY PROCEEDINGS AND SIMILAR REMEDIES IN AID OF EXECUTION.

(A) IN GENERAL.

931. In general.
932. Particular remedies and proceedings.
933. — In general.
934. — Garnishment as supplementary proceeding; garnishment in aid of execution.
935. — Injunction against disposition of property; restraining notice.
936. — Order for payment or delivery of property; turnover.
937. — Creditors' bill or suit.
938. — Reach and apply.
939. Judgments, orders, executions, and liens on which remedies or proceedings are authorized.
940. Persons entitled to seek remedies or maintain proceedings.
941. Persons against whom remedies may be sought or proceedings maintained.
942. Simultaneous and successive remedies or proceedings.

(B) COURSE AND CONDUCT OF PROCEEDINGS.

951. In general.
952. Jurisdiction and venue.
953. Time for proceedings; limitations and laches.
954. Parties.
955. Process and appearance.
956. Pleading or affidavit.
957. Evidence.
958. — In general; admissibility.
959. — Presumptions, inferences, and burden of proof.
960. — Weight and sufficiency.
961. Dismissal.
962. Reference.
963. Trial or hearing.
964. Judgment, order, or decree; relief awarded.
965. Lien or other rights acquired by proceedings.
966. Costs and fees.
967. Defects and irregularities in proceedings, and waiver thereof.
968. Relief against proceedings, judgments, orders, and decrees.

(C) RECEIVERS.

971. In general.
972. Discretion of court in general.
973. Grounds for appointment.
974. Persons eligible for appointment.
975. Proceedings for appointment.
976. — In general.
977. — Notice of application.
978. Bond, undertaking, or other security for appointment.
979. Commencement, duration, and termination of receivership.
980. Title to and possession of property.
981. Management and disposition of property.
982. Actions and proceedings.
983. Accounting and compensation.

(D) ENFORCEMENT OF JUDGMENT, ORDER, OR DECREE.

991. In general.
992. Contempt.
993. — In general.

108H. CREDITORS' REMEDIES

VIII. PARTICULAR REMEDIES—SUPPLEMENTARY PROCEEDINGS AND SIMILAR REMEDIES IN AID OF EXECUTION.(Cont'd)

- 994. — Acts or omissions constituting contempt.
- 995. — Proceedings to punish.
- 996. — Punishment.

IX. PARTICULAR REMEDIES—POSTJUDGMENT DISCOVERY.

- 1001. In general.
- 1002. Judgments, orders, and executions on which discovery is authorized.
- 1003. Right to discovery; grounds, defenses, and factors considered.
- 1004. Persons entitled to seek discovery.
- 1005. Persons against whom discovery may be sought.
- 1006. — In general.
- 1007. — Debtor.
- 1008. — Third persons.
- 1009. Simultaneous and successive discovery.
- 1010. Proceedings in general.
- 1011. Jurisdiction and authority of court or judge.
- 1012. Time for proceedings; limitations and laches.
- 1013. Pleadings and affidavits.
- 1014. Order or subpoena.
- 1015. Service or other notice.
- 1016. Scope of inquiry.
- 1017. Conduct of examination.
- 1018. Interrogatories.
- 1019. Production of documents.
- 1020. Subpoena duces tecum.
- 1021. Work-product privilege.
- 1022. Protective orders.
- 1023. Lien or other rights acquired by proceedings.
- 1024. Costs and fees.
- 1025. Defects and irregularities in proceedings, and waiver thereof.
- 1026. Relief against proceedings and orders.
- 1027. — In general.
- 1028. — Quashing subpoenas.
- 1029. Use and effect of testimony or information.
- 1030. Enforcement.
- 1031. — In general.

IX. PARTICULAR REMEDIES—POSTJUDGMENT DISCOVERY.(Cont'd)

- 1032. — Sanctions.
- 1033. — Contempt.

X. PARTICULAR REMEDIES—REMEDIES AGAINST DEBTOR'S EARNINGS, WAGES, AND OTHER INCOME.

- 1041. In general.
- 1042. Actions and proceedings in which remedies are authorized.
- 1043. Judgments, orders, and executions on which remedies are authorized.
- 1044. Right to remedy; grounds, defenses, and factors considered.
- 1045. — In general.
- 1046. — Execution.
- 1047. — Garnishment.
- 1048. — Installment payment order.
- 1049. Persons entitled.
- 1050. Persons subject.
- 1051. Simultaneous and successive remedies.
- 1052. Income and earnings which creditors may reach.
Exemptions from forced sale, see EXEMPTIONS, HOMESTEAD.
- 1053. — In general.
- 1054. — Money to become due; future income.
- 1055. — Income and earnings derived from employment.
 - (1). In general.
 - (2). Public employment.
- 1056. — Other particular kinds and sources of income and earnings.
- 1057. — Amount available to creditor.
- 1058. — Effect of payment in advance.
- 1059. Proceedings.
- 1060. — In general.
- 1061. — Parties, process, and appearance.
- 1062. — Disclosure and discovery.
- 1063. — Evidence.
- 1064. — Trial or hearing.
- 1065. — Judgment or order.
- 1066. — Costs and fees.
- 1067. Operation and effect.
- 1068. — In general.
- 1069. — Lien or priority.
- 1070. Relief against remedies.
- 1071. — In general.

108H. CREDITORS' REMEDIES

X. PARTICULAR REMEDIES—REMEDIES AGAINST DEBTOR'S EARNINGS, WAGES, AND OTHER INCOME.(Cont'd)

- 1072. — Proceedings.
- 1073. Payment or other satisfaction.
- 1074. Prejudgment remedies.
- 1075. — In general.
- 1076. — Proceedings; notice and hearing.

XI. ASSERTION OF CLAIMS BY THIRD PERSONS.

- 1081. In general.
- 1082. As to subject matter of attachment.
- 1083. As to subject matter of execution.
- 1084. As to subject matter of garnishment.
- 1085. Intervention to assert claim.
- 1086. — In general.
- 1087. — Proceedings to intervene.
- 1088. Time for asserting claim.
- 1089. Bond, undertaking, or other security.
- 1090. Proceedings for establishment and determination of claim.
- 1091. — In general.
- 1092. — Jurisdiction and venue.
- 1093. — Parties.
- 1094. — Process or notice, and appearance.
- 1095. — Pleading, affidavit, or other manner of asserting claim.
- 1096. — Issues and questions considered.
- 1097. — Evidence.
 - (1). In general; admissibility.
 - (2). Presumptions, inferences, and burden of proof.
 - (3). Weight and sufficiency.
- 1098. — Trial or hearing.
 - (1). In general.
 - (2). Questions of law or fact.
 - (3). Instructions.
 - (4). Verdict and findings.
- 1099. — Damages or other relief against claimant.
- 1100. — Judgment and enforcement thereof.
- 1101. — Costs and fees.
- 1102. Operation and effect of determination.

XII. LIABILITIES ON BONDS, UNDERTAKINGS, OR OTHER SECURITY.

- 1111. In general.
- 1112. Accrual or release of liability by breach or fulfillment of conditions.
- 1113. — In general.
- 1114. — Security posted by creditors to obtain remedies.
- 1115. — Security posted by debtors for relief from remedies.
- 1116. — Security posted by third parties.
- 1117. Rights and remedies of sureties.
- 1118. Discharge of sureties.
- 1119. Extent of liability.
- 1120. Proceedings to enforce.

XIII. DEBTORS' REMEDIES AGAINST CREDITORS.

- 1131. In general.
- 1132. Nature and grounds of liability.
- 1133. — In general.
- 1134. — Wrongful attachment.
- 1135. — Wrongful execution.
- 1136. — Wrongful garnishment.
- 1137. — Harassment.
- 1138. — Deepening insolvency.
- 1139. Persons entitled to damages.
- 1140. — In general.
- 1141. — Estoppel or waiver.
- 1142. Persons liable.
- 1143. Actions and proceedings.
- 1144. — In general.
- 1145. — Jurisdiction and venue.
- 1146. — Time for proceedings; limitations and laches.
- 1147. — Parties.
- 1148. — Pleading.
- 1149. — Evidence.
- 1150. — Trial or hearing.
 - (1). In general.
 - (2). Questions of law or fact.
 - (3). Instructions.
 - (4). Verdict or findings.
- 1151. — Judgment and enforcement thereof.
- 1152. — Costs and fees.
- 1153. Damages.
- 1154. — In general.
- 1155. — Measure or amount.

108H. CREDITORS' REMEDIES

XIII. DEBTORS' REMEDIES AGAINST CREDITORS.(Cont'd)

- 1156. — Nominal damages.
- 1157. — Costs and attorney fees as damages.
- 1158. — Punitive or exemplary damages.
- 1159. — Excessive damages.
- 1160. — Recovery or set-off of damages in principal proceeding.

XIV. COLLECTIVE REMEDIES.

- 1171. In general.
- 1172. Assignments for benefit of creditors.
Financial institutions, see FINANCE, BANKING, AND CREDIT ¶969. *Corporations, see CORPORATIONS AND BUSINESS ORGANIZATIONS* ¶2888, 2913(4), 3313. *Partnerships, see PARTNERSHIP* ¶860.
- 1173. — In general.
- 1174. — Requisites and validity.
- 1175. — Construction and operation.
- 1176. — Appointment, qualification, and tenure of assignee or trustee.
- 1177. — Administration of assigned estate.
- 1178. — Rights and remedies of creditors.
- 1179. — Rights and remedies of assignors.
- 1180. — Accounting, settlement, and discharge of assignee.
- 1181. — Liabilities on assignees' bonds.
- 1182. Compositions with creditors.
- 1183. Insolvency proceedings.
Insolvency and insolvent debtors in general, see ¶9. *Bankruptcy, see BANKRUPTCY.*
- 1184. — In general.
- 1185. — Relation to federal bankruptcy law and proceedings.
- 1186. Marshaling assets and securities.
Marshaling partnership and individual assets, see PARTNERSHIP ¶712.
- 1187. — In general.
- 1188. — Grounds in general.
- 1189. — Nature of property or funds and claims or liens.
- 1190. — Liens or claims against property or funds of different persons.
- 1191. — Rights of paramount creditor.
- 1192. — Release, assignment, or loss of rights of paramount creditor.
- 1193. — Enforcement.

110. CRIMINAL LAW

SUBJECTS INCLUDED

Acts and omissions in violation of law punishable as offenses against the public
Nature and elements of crime in general
Capacity to commit crime, nature and extent of responsibility therefore in general, and responsibility of principals, accessories, etc.
Jurisdiction over and place of prosecution of crimes
Limitation of time for prosecution
Preliminary complaints, warrants, examination and commitment
Arraignment and pleas
Evidence in criminal proceedings
Trial, and acquittal or conviction
Motions in arrest of judgment and for new trial
Review on appeal, writ of error or certiorari
Prevention of crime in general

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

Arrest, see ARREST
Bail, see BAIL
Constitutional rights and privileges of accused not peculiar to matters within scope of this topic, see CONSTITUTIONAL LAW, INDICTMENT AND INFORMATION, JURY, SEARCHES AND SEIZURES, WITNESSES and other specific topics
Convicts, disabilities and regulation, see CONVICTS
Costs in criminal prosecutions, see COSTS
Extradition of fugitives, see EXTRADITION AND DETAINERS
Fines in general, see FINES
Grand juries and inquisitions by them, see GRAND JURY
Habeas corpus to obtain discharge from imprisonment, see HABEAS CORPUS
Included offenses, conviction under indictment for broader offense, see INDICTMENT AND INFORMATION
Indictments or other accusations, see INDICTMENT AND INFORMATION and specific topics relating to particular offenses
Injunction against commission of crime, see INJUNCTION

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Judgment of acquittal, conviction or sentence, effect as adjudication, see JUDGMENT

Jury trial, right to and waiver, and qualifications and selection of jurors, see JURY

Juvenile offenders, special rules and proceedings, see INFANTS

Military offenses and court-martial prosecutions, see ARMED SERVICES, MILITARY JUSTICE

Offenses and prosecutions involving Indians or other persons in Indian country and on the reservations, see INDIANS

Pardon, commutation of sentence, and parole, see PARDON AND PAROLE

Particular classes of persons, criminal responsibility, see INFANTS, MENTAL HEALTH and other specific topics

Particular offenses, substantive and procedural questions peculiar to, see HOMICIDE, LARCENY and other specific topics

Pecuniary punishment and deprivation of property as punishment for violation of law, see FORFEITURES, PENALTIES, INTOXICATING LIQUORS and other specific topics

Prisons and reformatories, establishment and regulation, see PRISONS, INFANTS XVII

Privileged communications and confidential relations, see PRIVILEGED COMMUNICATIONS AND CONFIDENTIALITY

Prosecuting attorneys, see DISTRICT AND PROSECUTING ATTORNEYS

Punishment of crime and sentencing procedure, see SENTENCING AND PUNISHMENT

Searches and seizures, see ARREST, SEARCHES AND SEIZURES, INTOXICATING LIQUORS and other specific topics

Witnesses and their examination, see WITNESSES

I. NATURE AND ELEMENTS OF CRIME, \S 1-30.

II. DEFENSES IN GENERAL, \S 31-43.5.

III. ATTEMPTS, \S 44.

IV. SOLICITATION, \S 45.

V. MISCELLANEOUS CRIMES, \S 45.10-45.55.

VI. CAPACITY TO COMMIT AND RESPONSIBILITY FOR CRIME, \S 46-58.

VII. PARTIES TO OFFENSES, \S 59-82.

VIII. JURISDICTION, \S 83-105.

IX. VENUE, \S 106-145.

(A) PLACE OF BRINGING PROSECUTION, \S 106-114.

(B) CHANGE OF VENUE, \S 115-144.

(C) OBJECTIONS AND EXCEPTIONS, \S 145.

X. LIMITATION OF PROSECUTIONS, \S 145.5-160.

XI. FORMER JEOPARDY (OBSOLETE, SEE DOUBLE JEOPARDY).

XII. PRETRIAL PROCEEDINGS, \S 205-246.

XIII. NONJURY OR BENCH TRIAL AND CONVICTION, \S 247-260.13.

XIV. ARRAIGNMENT, \S 261-266.

XV. PLEAS, \S 267-303.

XVI. NOLLE PROSEQUI OR DISCONTINUANCE, \S 303.5-303.50.

XVII. EVIDENCE, \S 304-572.

(A) JUDICIAL NOTICE, \S 304.

(B) PRESUMPTIONS AND INFERENCES, \S 305-325.

(C) BURDEN OF PROOF, \S 326-336.

(D) FACTS IN ISSUE AND RELEVANCE, \S 337-361.

(E) RES GESTAE, \S 362-368.

(F) OTHER MISCONDUCT BY ACCUSED, \S 368.1-374.32.

1. OTHER MISCONDUCT AS EVIDENCE OF OFFENSE CHARGED IN GENERAL, \S 368.1-368.15.

2. ADMISSIBILITY IN PROSECUTIONS FOR PARTICULAR OFFENSES IN GENERAL, \S 368.16-368.41.

3. OTHER MISCONDUCT INADMISSIBLE UNDER ANY OF SEVERAL THEORIES, \S 368.42-368.67.

4. OTHER MISCONDUCT INSEPARABLE FROM CRIME CHARGED, \S 368.68-368.98.

5. OTHER MISCONDUCT PART OF PLAN EMBRACING MORE THAN ONE ACT, \S 370.1-370.29.

6. OTHER MISCONDUCT SHOWING MOTIVE, \S 371.1-371.26.

7. OTHER MISCONDUCT SHOWING INTENT, \S 371.27-371.53.

8. OTHER MISCONDUCT SHOWING KNOWLEDGE, \S 371.54-371.79.

9. OTHER MISCONDUCT SHOWING ABSENCE OF MISTAKE OR ACCIDENT, \S 372.1-372.27.

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XVII. EVIDENCE—Cont'd

(F) OTHER MISCONDUCT BY ACCUSED—Cont'd

10. OTHER MISCONDUCT SHOWING IDENTITY,

⌚372.28–372.53.

11. OTHER PARTICULAR THEORIES OF ADMISSIBILITY,

⌚372.54–372.61.

12. NATURE AND CIRCUMSTANCES OF OTHER MISCONDUCT AFFECTING ADMISSIBILITY, ⌚373.1–373.31.

13. PROOF AND EFFECT,

⌚374.1–374.32.

(G) CHARACTER OF ACCUSED,

⌚375–381.

(H) MATERIALITY, ⌚382–384.

(I) COMPETENCY IN GENERAL,

⌚385–397.

(J) BEST AND SECONDARY EVIDENCE, ⌚398–404.

(K) DEMONSTRATIVE EVIDENCE,

⌚404.5–404.85.

(L) STATEMENTS, CONFESSIONS, AND ADMISSIONS IN GENERAL, ⌚405.1–405.23.

(M) STATEMENTS, CONFESSIONS, AND ADMISSIONS BY OR ON BEHALF OF ACCUSED,

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1. IN GENERAL, ⌚410.1–410.9.

2. HEARSAY, ⌚410.10–410.19.

3. JUDICIAL ADMISSIONS AND CONFESSIONS, ⌚410.20–410.29.

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⌚410.75–410.93.

10. WARNINGS, ⌚411.1–411.19.

11. CUSTODY, ⌚411.20–411.29.

12. COUNSEL IN GENERAL,

⌚411.30–411.34.

13. INTERROGATION IN GENERAL,

⌚411.35–411.44.

14. CONDUCT OF INTERROGATION, ⌚411.45–411.64.

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19. DETERMINATION OF ADMISSIBILITY OF STATEMENT, CONFESSION, OR ADMISSION,

⌚413.20–413.69.

20. CORROBORATION,

⌚413.70–413.84.

21. EFFECT OF ADMISSION OF STATEMENT, CONFESSION, OR ADMISSION,

⌚413.85–413.89.

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(P) DOCUMENTARY EVIDENCE,

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(Q) PAROL EVIDENCE, ⌚447.

(R) OPINION EVIDENCE, ⌚448–506.

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(B) COURSE AND CONDUCT OF TRIAL IN GENERAL, ⌚633.1–660.

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- (D) PROCEDURES FOR EXCLUDING EVIDENCE, ¶690-698.
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- (F) PROVINCE OF COURT AND JURY IN GENERAL, ¶731-768.
- (G) INSTRUCTIONS: NECESSITY, REQUISITES, AND SUFFICIENCY, ¶769-823.
- (H) INSTRUCTIONS: REQUESTS, ¶824-837.
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- (K) VERDICT, ¶870-894.
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XXII. ARREST OF JUDGMENT, ¶966-976.

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 - 2. EXCEPTIONS, ¶1048-1062.
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XXIV. REVIEW—Cont'd

- (G) RECORD AND PROCEEDINGS NOT IN RECORD—Cont'd
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- (L) SCOPE OF REVIEW IN GENERAL, ¶1134.1-1140.
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 - 5. THEORY AND GROUNDS OF DECISION IN LOWER COURT, ¶1134.60-1134.64.
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 - 7. NATURE OF DECISION APPEALED FROM AS AFFECTING SCOPE OF REVIEW, ¶1134.70-1134.74.
 - 8. SENTENCING, ¶1134.75-1134.84.
 - 9. REVIEW OF DECISIONS IN OTHER PROCEEDINGS, ¶1134.85-1134.89.
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XXIV. REVIEW—Cont'd

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12. AMENDMENTS, ¶1138.
13. REVIEW DE NOVO, ¶1139–1140.
- (M) PRESUMPTIONS, ¶1141–1146.
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XXVII. PREVENTION OF CRIME, ¶1222–1225.

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- (B) GROUNDS FOR RELIEF, ¶1450–1560.
- (C) PROCEEDINGS, ¶1570–1689.
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- (A) COUNSEL FOR PROSECUTION, ¶1690–1709.
- (B) RIGHT OF DEFENDANT TO COUNSEL, ¶1710–1869.
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XXXI. COUNSEL—Cont'd

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4. STATUS AND COMPETENCE OF ACCUSED AFFECTING RIGHTS AND WAIVER, ¶1760–1769.
5. PROCEDURE AND AFFIRMATIVE DUTIES BY COURT IN PROTECTION OF RIGHT TO COUNSEL AND RIGHT TO SELF-REPRESENTATION, ¶1770–1779.
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 2. PARTICULAR CASES AND ISSUES, ¶1890–1979.
- (D) DUTIES AND OBLIGATIONS OF PROSECUTING ATTORNEYS, ¶1980–2049.
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- (E) DUTIES AND OBLIGATIONS OF DEFENSE ATTORNEYS, ¶2050–2059.
- (F) ARGUMENTS AND STATEMENTS BY COUNSEL, ¶2060–2210.

I. NATURE AND ELEMENTS OF CRIME.

1. Nature of crime in general.
2. Power to define and punish crime.
3. — In general.
4. — United States.
5. — States.
6. — Territories.

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I. NATURE AND ELEMENTS OF CRIME.(Cont'd)

- 7. — Municipalities.
- 8. Application and operation of common law.
- 8.5. — In general.
- 9. — Adoption and abrogation.
- 10. — Application in general.
- 11. — Effect as to construction of statutes.
- 12. Statutory provisions.
Certainty, definiteness, vagueness, and overbreadth, see CONSTITUTIONAL LAW.
- 12.5. — In general.
- 12.7. — Construction and operation in general.
 - (1). In general.
 - (2). Liberal or strict construction; rule of lenity.
- 13. — Creation and definition of offenses.
 - (1). In general.
 - (2). Declaring act criminal; fixing degree or prescribing penalty.
- 13.2. — Retroactive operation.
- 14. — Amendment, revision, and codification.
- 15. — Repeal.
- 16. — Offenses against United States and state or territory.
- 17. — Offenses against state and municipality.
- 18. — Extraterritorial operation.
- 19. Criminal intent and malice.
- 20. — In general.
- 21. — Acts prohibited by statute.
- 22. — Motive.
- 23. — Negligence; recklessness.
- 24. — Presumption from unlawful act.
- 25. — Unintended consequences of act.
- 26. Criminal act or omission.
- 27. Felonies and misdemeanors.
- 28. Degrees of offenses.
- 29. Different offenses in same transaction.
See also, SENTENCING AND PUNISHMENT III. Includes election as to prosecution. Excludes election after indictment, see INDICTMENT AND INFORMATION ¶189, 191.
 - (1). In general.
 - (2). Conviction of lesser or included offenses.
 - (3). Election between offenses.

I. NATURE AND ELEMENTS OF CRIME.(Cont'd)

- (4). Offenses against different sovereignties.
 - (5). Particular offenses.
¶29(5) to 29(15) include, in descending order, both multiple charges of the same offense and charges of the described offense and another offense, e.g., a charge encompassing both a weapons offense and homicide would be classified at ¶29(15).
 - (5.5). — In general.
 - (7). — Traffic offenses.
 - (8). — Drugs and narcotics offenses.
 - (9). — Assault and battery; armed violence.
 - (10). — Larceny offenses.
Excludes liability for both larceny of goods and receiving, concealing, etc., the same goods; see RECEIVING STOLEN GOODS ¶6.
 - (11). — Robbery and burglary.
 - (12). — Sex offenses; obscenity.
 - (13). — Kidnapping.
 - (14). — Homicide.
 - (15). — Weapons offenses.
30. Merger of offenses.

II. DEFENSES IN GENERAL.

- Self-defense, see ASSAULT AND BATTERY ¶67 and HOMICIDE ¶766-809.*
- 31. Defenses in general.
 - 31.5. Alibi.
 - 31.10. Abandonment.
 - 32. Ignorance or mistake of law.
 - 33. Ignorance or mistake of fact.
 - 34. Custom or usage.
 - 35. Contributory negligence of person injured.
 - 36. Wrongful act or conduct of person injured.
 - 36.5. Official action, inaction, representation, misconduct, or bad faith.
See also CRIMINAL LAW XXXI for, generally, misconduct subsequent to the institution of the prosecution.
 - 36.6. — In general.
 - 37. — Entrapment.
 - (1). In general.
 - (2). What constitutes entrapment.
 - (2.1). — In general.
 - (3). — Originating intent; furnishing opportunity or facilities.
 - (4). — Previous innocence or criminal disposition of accused.